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LGBT+ People in Prisons

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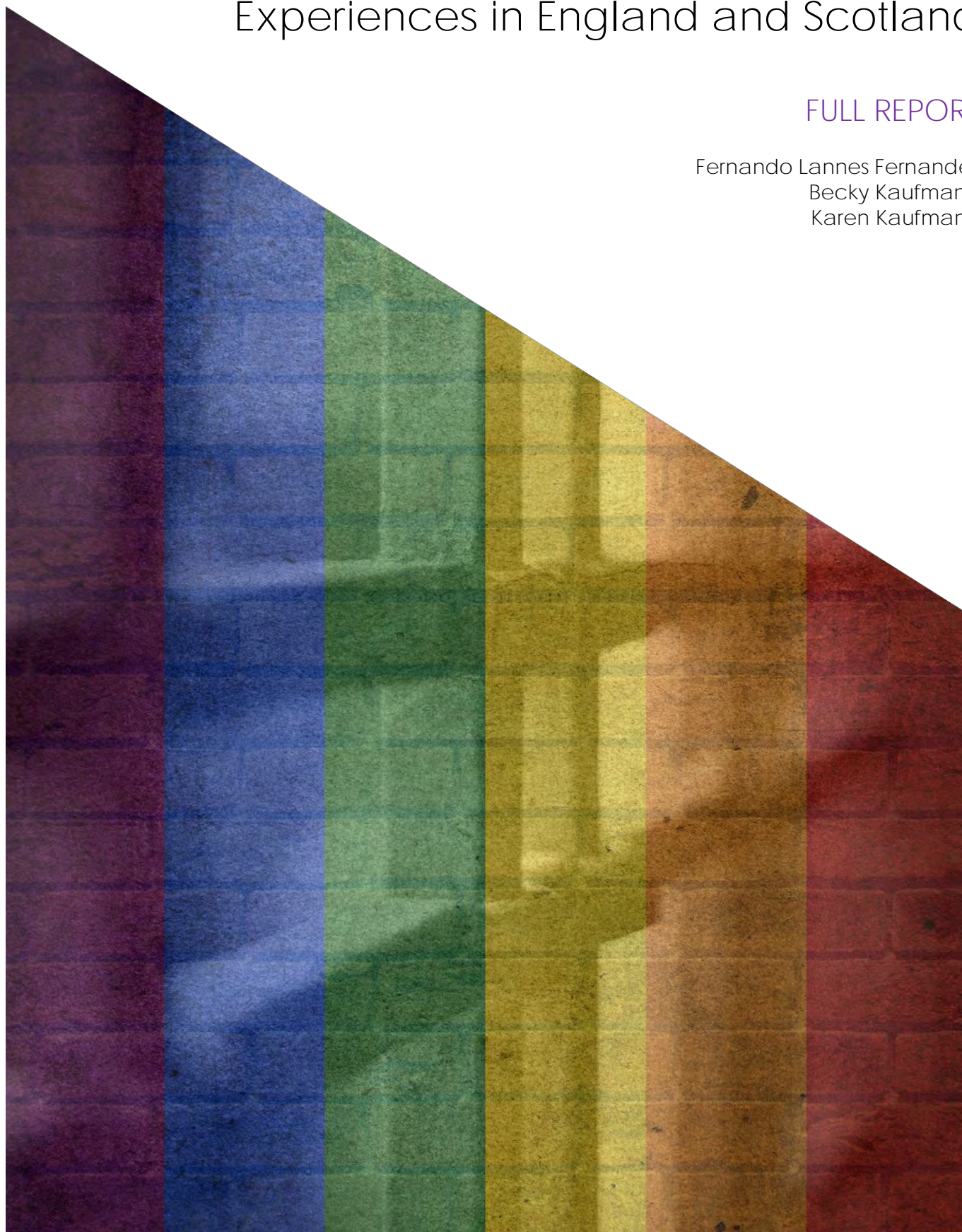
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LGBT+ People in Prisons:

Experiences in England and Scotland

FULL REPORT

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A blue-tinted photograph showing the silhouette of a person's head and shoulders in profile, looking out of a large window. The window has a grid pattern, and the background outside is blurred, showing what appears to be an outdoor area with some structures.

Hate crimes recorded by the police in England and Wales around sexual orientation increased 25% from 11,592 in 2017/18 to 14,491 in 2018/19

(Home Office, 2019)

EXECUTIVE SUMMARY

I. Introduction

This research project set out to examine current policy and practice regarding LGBT+ people¹ in prison in England and Scotland². It focuses on a wide spectrum of sexual orientations and gender identities, which includes lesbian, gay, bisexual, transgender, queer/questioning, and presents a wide range of personal testimony and voices drawn from in-depth qualitative research.

The research and writing of this report took place before the emergence of Covid-19 and the subsequent measures that have been implemented across the UK to respond to the spread of the virus. This is an area that demands further investigation into the impact of Covid-19 on prisons. Analysis should particularly focus on vulnerable groups, including LGBT+ people, who may have suffered disproportionately from the impact of preventative measures on prison population management as well as the increased isolation caused by the dramatic reduction in access to people not directly working in prisons during this time.

This report draws on the broad research project 'The right to difference: Evidencing the situation of young adult LGBT+ people in the UK prisons', funded by Barrow Cadbury Trust, and developed by the University of Dundee under the coordination of Dr Fernando Lannes Fernandes. This specific research project that focused on people in the English and Scottish prison systems, aligns with another similar project that we are involved with, that is looking at the same issues internationally. As part of this broader initiative, we are working together towards international knowledge exchange and policy learning.

Our study sought to examine how individual attitudes and social interactions as well as institutional policies and structures in English and Scottish prisons might be shaped by discrimination and lack of understanding, and how this influences the experiences of LGBT+ people in custody. A key area of interest in our research was to examine existing policies within the English prison system (HMPPS) and Scottish prison system (SPS). We

¹ There is a wide range of acronyms used to describe the LGBT+ community. Each has proponents and detractors. We have chosen to limit our acronym to the core of L(esbian) G(ay) B(isexual) T(ransgender) and to include a + to indicate that we mean to be inclusive of all identities and orientations that could fall under this umbrella without creating an unmanageable alphabet soup of initials. Although we speak throughout the report of LGBT+ people, this is not a homogenous group as we explain in the body of the report. LG & B refer to sexual orientation, while T refers to gender identity (trans people are also L,G,B or straight). It is common usage when speaking of LGBT people to fluidly move between LGB;T and LGBT as dictated by context. Some people including the Scottish Government and the English prison trans policy include I(ntersex) in their acronyms. Intersex or VSC (variations of sex characteristics) refers to a person's physical characteristics and not their sexual orientation or gender identity. We did not engage with any intersex people in the course of this research and it is important to note that there is much disagreement as to whether intersex issues should be included with other LGBT issues.

² The research originally intended to cover the whole UK (England, Scotland, Wales and Northern Ireland). However, access was not granted in Northern Ireland (we were told there were too many research projects taking place in prisons at that moment). In Wales, despite authorisation from HMPPS, we did not manage to access prisons during the recruitment stage.

looked at how consistent policy frameworks are with the most promising international practices³. We also examined the extent to which prison staff members feel empowered and educated to support LGBT+ people in custody, whether explicitly related to formal policies or through other means. The most important facet of our research, however, was to examine the actual experiences of LGBT+ people in custody in England and Scotland, and to contextualise these experiences within a) what policy says about how they should be treated and b) how their experiences relate to those of LGBT+ people and others in custody in other countries.

Stigmatised groups in society such as LGBT+ people are among those most exposed to acts of violence and discrimination on many levels, some of which are invisible or simply taken for granted within everyday, dominant discriminatory attitudes and practices. In their 2017 LGBTI Hate Crime Report, Equality Network found that 64% of LGB people and 80% of trans people in Scotland experienced hate crime at some point in their lives (Pearson, 2017). In a similar study, Stonewall found that two in five trans people in the UK experienced hate crime in the 12 months leading up to their study due to their gender identity. One in six LGB people who are not trans experienced hate crime due to their sexual orientation during the same period (Bachmann and Gooch, 2017).

Hate crimes recorded by the police in England and Wales around sexual orientation increased 25% from 11,592 in 2017/18 to 14,491 in 2018/19. Transgender-related hate crimes rose by 37% from 1,703 to 2,333 over the same period (Home Office, 2019). LGBT+ individuals are faced with lack of understanding, prejudice and intolerance, even in the UK which has specific laws and practices in place for the protection of their rights and safety. These experiences may be exacerbated within the prison environment. We found that in large measure, English and Scottish prison administrators and managers have good intentions when it comes to promoting equality in general. We also found that many staff have a baseline awareness that LGBT+ people have additional needs and challenges not faced by other people in custody.

It has frequently been stated that the prison system is designed by men, for men, and “hyper-masculinity” (the exaggeration of traditionally masculine traits or behaviour such as violence, or callous attitudes towards women) is an all too common feature of prison life in the male estate. It is arguable that this is reflected in the structure and attitudes of the Prison Service where, although the majority of those working in the system are working towards the best outcomes possible for people in custody, current policies result in a system where if people do not conform to stereotypical male behaviours and attitudes they will experience, to paraphrase Baroness Corston⁴, disproportionately harsh treatment.

³ Frequently, in the UK the term ‘best practice’ is used to refer to the highest quality practices found in a particular context to which all others should aspire. This term is problematic both in its colonial implications (who has determined what is best) and in the assumed presumption that these practices represent the pinnacle of possibility and that success will be achieved by matching these practices. We have chosen instead to use the term ‘most promising international practices’. This acknowledges that these practices are better than the current ones without implying that there are no possible better practices.

⁴ ‘Prison is disproportionately harsher for women because prisons and the practices within them have for the most part been designed for men’ (2007, p3).

We observed evidence of this in some of the interviews we did in both men's and women's prisons. There is a lack of recognition and understanding of sexual and gender diversity, that makes traditional heterosexuality and binary norms of masculine/feminine conformity the rule.

Consequently, there are everyday practices that contribute in many ways to single out LGBT+ people in prisons as different and dehumanise them. Despite the widely accepted ideal that the punishment of deprivation of liberty should not be increased by making the experiences within the prison additionally punitive, many LGBT+ people in prisons do experience additional punishment simply for being homosexual, bisexual and/or transgender.

When we refer to punishment in this context, we are aware that this is a complicated area that has been a subject of much contention. Punishment is a very relative term in rigid, structured environments such as prisons. While formal punishments may be given out as set penalties for infractions of set rules, informal punishment may result from treatment that appears arbitrary, not explained and/or at the whim of those holding power. Such actions may take place at many levels from loss of possessions or privilege, to ridicule or separation from others that affect a person's self-worth, personal agency and dignity. The result is that the affected person feels they are treated less favourably than others and it is therefore experienced as punishment.

II. Intersectionality

Our research shows that LGBT+ people in prison must be acknowledged on their specificities, but within a spectrum of wider societal disadvantages such as social class, race and ethnicity. Given the limited size of our sample and the challenges involved in participant recruitment, it was not possible to look at those issues more in depth. However, it can be expected based on other research, that a sample large enough to be analysed would show the confluence of lower education, fragile family status and precarious socio-economic status as issues that combine with gender identity and sexual orientation to increase vulnerability in the life trajectory of the research participants (Day and Gill, 2020). While the unique and often complex experiences and needs of LGBT+ people in prisons have begun to be recognised, particularly regarding intersectional forms of discrimination targeting ethnic or economic background, much of the research into the experiences of LGBT+ people in prisons is relatively sparse and exploratory. This is especially true for younger LGB+ and all transgender people.

III. Structural Context

Our research took place in England and Scotland. The criminal justice system in Scotland is devolved from the UK Government, and the prison system there is managed separately with its own internal policies and procedures. We found that for the most part specific policies do not exist for LGB people. LGB issues are most often addressed through Equality Impact Assessments rather than stand-alone policies. Both England and

Scotland have robust policies for trans people⁵ which have been in place for a number of years now. These policies are currently under pressure because trans women in women's prisons have become one of the central points of contention in the current political debate around gender recognition reform in both England and Scotland. It is worth noting that in spite of media characterisations that large numbers of trans women are housed in women's prisons, there are actually very few trans women housed in women's prisons. In November 2019, England and Wales reported that there were 163 transgender prisoners of whom 4 were trans women without legal gender recognition housed in women's prisons, compared to an overall female population of approximately 3,800 (Ministry of Justice, 2019). In Scotland there are 4 trans women housed in women's prisons⁶ an overall female population of approximately 3,800 (Ministry of Justice, 2019). In Scotland there are 4 trans women housed in women's prisons⁷.

IV. Approach to data collection

Data collection took place across five prisons in Scotland and four prisons in England from June to November 2018, using semi-structured and conversational qualitative interviews with self-declared LGBT+ people in custody, focusing on themes of discrimination, stigma and social isolation, lack of support, and areas where they were able to reclaim autonomy and build resilience. Focus groups and interviews were conducted with front line prison officers and management staff to explore staff perceptions and attitudes towards LGBT+ people in prison and issues around the challenges of everyday work and perceived 'good practice' regarding LGBT+ people in custody. In total 29 LGBT+ people in prison were individually interviewed; 29 prison officers took part in five focus groups; five management staff were individually interviewed.

We examined, through the voices of LGBT+ people in custody as well as prison staff, those views and attitudes that impact LGBT+ people in prison and the implicit or explicit oppressive systems which affect LGBT+ people in prisons. We also looked at the challenges for LGBT+ people in prisons to transition back to the community once released. We focused on four major themes.

- LGBT+ people in prisons' experiences of discrimination, stigma and isolation
- LGBT+ people in prisons' experiences around access to appropriate support

⁵ The full SPS policy can be found at <http://www.sps.gov.uk/Corporate/Publications/Publication-2561.aspx> and the full HMPPS policy can be found at <https://www.justice.gov.uk/offenders/probation-instructions/pi-archive-2016>. The 2019 HMPPS policy and guidance can be found at <https://www.gov.uk/government/publications/the-care-and-management-of-individuals-who-are-transgender>

⁶ The Scottish Prison Service does not publish accurate statistics on the number of trans people in custody, however one of the authors of this report works directly with trans people in Scottish prisons and is aware of their numbers.

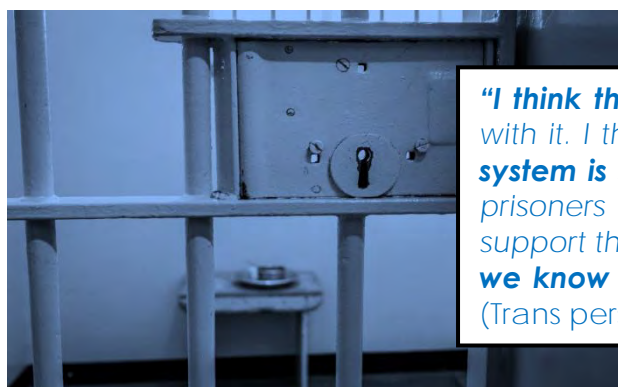
⁷ The Scottish Prison Service does not publish accurate statistics on the number of trans people in custody, however one of the authors of this report works directly with trans people in Scottish prisons and is aware of their numbers.

- How LGBT+ people in prisons share experiences and strategies to build resilience and self-esteem
- How institutional structures and individual initiatives are enabling LGBT+ people in prisons to reclaim autonomy and improve their experiences within the prison system

V. Key Findings

Lack of support

LGBT+ participants reported a lack of access to appropriate support related to being LGBT+, which led to people feeling isolated, misunderstood and mistrustful towards the justice system. The system was perceived as inflexible and uncompromising and participants questioned the logic and appropriateness of what appear to be arbitrary rules.



"I think that management is only a small problem with it. I think the bigger problem is how the prison system is set up, like it's not set up to support LGBT prisoners as an independent unit. It's set up to support them almost kind of half assed like yeah ok we know what you are, but we don't really care."
(Trans person in custody)

The lack of support isn't limited to trans people, and staff are also aware of it as a problem.

Our respondents felt that they are doubly disadvantaged by lack of staff knowledge and understanding around LGBT+ issues, and lack of knowledge and understanding regarding their own rights.

Barriers to more inclusive practices

While we did find some aspirational elements to some policies, and instances where individual staff were supportive and trying hard to make things better, we found that overall individual and institutional barriers exist that make being LGBT+ in prison particularly difficult. In many cases we found this adds to an already negative experience. Among these are practices and attitudes that value masculinity and being heterosexual.

"so imagine in this environment, which is already tense, already, you're already, away from your family, you haven't got the support of a loved one, apart from on visits. I imagine coming out in this environment is very difficult and living as a gay man." (Prison officer)

As part of both institutional and individual mindsets, these tend to be overlooked and normalised in the functioning of the prison environment. These can be difficult to tackle as they are pervasive and, in many ways, invisible.

Segregation and institutional discrimination

Homophobia, biphobia, transphobia and explicit violence directed at LGBT+ people in custody is often dealt with by segregating the affected individual for their own protection. English and Scottish prisons often use the same physical spaces for disciplinary and protective segregation. The segregation units have particular routines and limitations on space and freedom, with the result that people being segregated for administrative reasons do not have substantially different experiences of these spaces than those who have been segregated for punitive reasons (Mogul et al., 2011; Read and McCrae, 2016). As a result, this is considered a punishment in itself by people in custody (Stevens, 2015).

Segregation is a reactive response rather than a challenge to the institutionalised nature of the prejudice itself. Regardless of any assertions by prison managers and

"To go into prison and that and then be in an environment I've never been in before and hearing all these stories about prison and like the showers and stuff like that, it was quite scary. So I never came out when I first came to prison." (Lesbian woman in custody)

administrators that they are acting in the best interests of the LGBT+ person, the reality of the experience of the person is that they are being punished for their identity, and this has a chilling effect on both their willingness to disclose anything about themselves and on their

overall mental health. Unfortunately, it is far less draining on the resources of an already overtaxed prison system to segregate an individual or small group of people than it is to change the underlying culture of a whole institution.

Concerns about disclosing sexual orientation and gender identity

In this study, we only recruited people in custody who self-declared as LGBT+. Because of this, we were unable to capture a full understanding of the constraints experienced by those who chose to keep their identities secret. We did not recruit only LGBT+ staff, although some of them were openly LGBT+. Some people in custody reported that they were not open about their gender identity and sexual orientation, due to fears of discrimination or abuse. As reported by some of our participants, this influenced the way

"I dare say it, I know they've got somebody goin' through the journey (transition)... but he's kept in segregation unit all the time, for his own protection [pause] so, I dare say it is still happenin."
(Prison Officer)

they engaged with others. At times they were selective about whether to disclose their identities or not. This created emotional distress through a lack of trust towards both peers and staff and a fear of violence.

An example of this was the use of jokes and banter as ways to stigmatise and belittle LGBT+ people. In several cases individuals felt disempowered to challenge this discrimination or highlighting of difference because such interactions had been normalised. Issues affecting transgender people in prison

Transgender people in particular had difficulty in accessing trans related support. Even where assistance is given, it is often perceived as a favour rather than a right, and policies and procedures were often not fully adhered to. Furthermore, transgender people in custody experience difficulties accessing support for their transition because staff do not have enough knowledge, yet they are unable to take control of their own transitions. In spite of the fact that prison policies related to LGBT+ people are most heavily weighted towards trans people, they remain largely misunderstood and subject to bias both conscious and unconscious based on negative historical stereotypes and lack of overall awareness.

Building awareness and resilience

People in custody

"I'm the rep for like obviously sexual orientation, so if anyone has ever got any problems they'll come to me, we'll go to meetings and bring up any issues that come around, anything they feel is wrong." (Lesbian woman in custody)

LGBT+ people often find practical ways to deal with feelings of powerlessness and build the skills to advocate for themselves in the prison system. A number of participants who had an awareness of LGBT+ rights often held positions such as LGBT+ representatives in their respective prisons. Where possible LGBT+ people form

groups and extend support to each other, but this is not overly common, and some LGBT+ people feel that they are being asked to do more than they are qualified to do.

Institutional changes

Both research participants in custody and prison staff felt that the prison system needs to start accepting and treating those in custody as the diverse human beings that they are, and that the responsibility for LGBT+ support should not be placed solely on the shoulders of LGBT+ people in prisons.

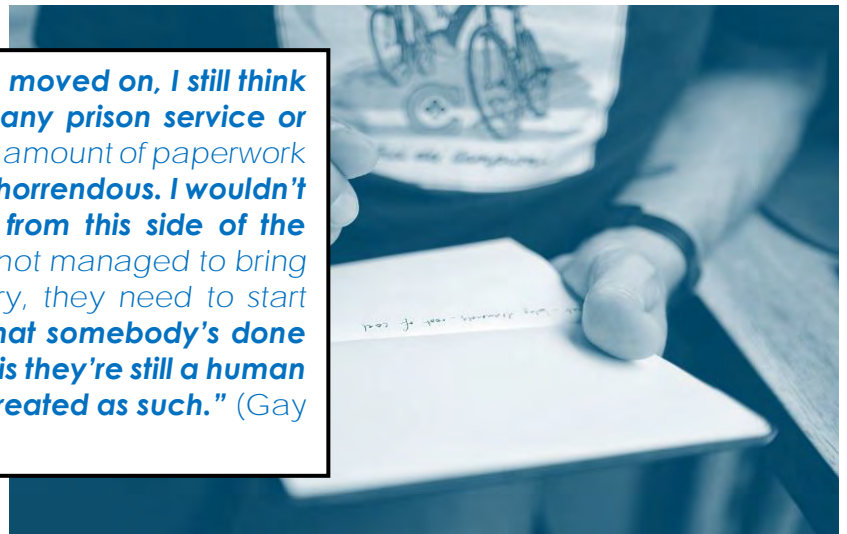
"one issue that I've noticed with, with LGB in prison is that LGB prisoners don't necessarily understand T, non LGB prisoners definitely don't understand T, just think it's a man wearing a bra for the thrill of it or to get an easy life in prison." (Gay man in custody)

Prisons have added awareness and Pride events which improve visibility, but there remains frustration that the overall culture is still unwelcoming. Staff also recognised their power to influence change



"I wouldn't say I'm an expert, but they seem to think I am, they've got me supporting all these trans women and men in other jails and I'm like okay..." (Trans person in custody)

"although the Prison Service has moved on, I still think there's a bit of apathy there... any prison service or any prison officer will tell you the amount of paperwork that is generated in this place is horrendous. I wouldn't like their job but I'm seeing it from this side of the fence... it's just that they've still not managed to bring themselves into the 21st century, they need to start accepting that regardless of what somebody's done and it doesn't matter how bad it is they're still a human being and they still need to be treated as such." (Gay man in custody)



"I think everybody, whatever role they do, whatever job, we're all influencing, influencers. (...) from the minute (you) get up in the mornin' to the minute (you) go to bed, you influence other people everyday by your behaviour and your attitudes. So, I don't know if educate, is it the same thing? Maybe? But, yes, I think that we all influence people..." (Prison Officer)



VI. Conclusion and Recommendations

While the prison system itself can be intractable and resistant to change where someone doesn't conform to rules and norms, both participants and staff agreed on the need for a more person-centred approach that includes the individual as *part* of the system rather than as something to be *contained* by the system. We found evidence that the prison services in both England and Scotland have an awareness of LGBT+ people's issues and needs, such as having robust policies dealing with transgender people, and allowing Pride events in certain prisons. Research evidence nonetheless shows that prisons are inherently traumatising, rigid and frequently dangerous places, particularly for those who identify as LGBT+, and that LGBT+ needs are often ignored or minimised.

We believe that deprivation of liberty should be the last resort adopted by states to deal with crime. We argue that it is necessary to find ways to make the prison system less rigid and dehumanising and to enable staff and people in custody to have increased level of autonomy and voice. The involvement of LGBT+ individuals is necessary inside and outside prison. We believe that the prison environment should create mechanisms to protect LGBT+ people from discrimination and harm. As such, it is necessary to develop systematic and reflexive learning approaches in which the whole system (staff, people in custody, institutional rules and procedures, policy and legislation) incorporates LGBT+ rights and needs into everyday practice. We believe that can lead to new and better institutional cultures within prison.

As a result of our findings, we have formulated a list of recommendations that should be taken forward to improve the experiences of LGBT+ people in UK prisons:

- Tailored training and awareness resources must be developed to increase knowledge and improve understanding of specific LGBT+ issues by policy makers and prison governing structures. Existing training must be improved or replaced with more effective options.
- LGBT+ people in prisons should be given a voice to feed back their experiences to prison management. This should include not only traditional formal mechanisms within the prison system, but also the adoption of more dialogue between those in custody and staff that can enable LGBT+ individuals to be heard and understood within their own contexts, language and socio-cultural codes.
- Organisations working with LGBT+ human rights must be adequately resourced and given access to speak on behalf of people in prisons who may be less able to articulate their own needs. This should be in conjunction with increased awareness of LGBT+ people in prison's rights.
- Resources should be invested in building bridges to the community so LGBT+ people in the system do not lose touch with the broader LGBT+ community, their families and friends.

- Further research needs to be done, for example, with regard to LGBT+ people in female prisons as well as the experiences of LGBT+ young people; and how transgender policy is being translated into practice across UK prisons. There is also a need to further understand issues related to prison staff attitudes towards LGBT+ individuals, and how institutional discrimination can be tackled. Finally, we believe that research needs to focus on international comparison, through identification of promising practices, and the use of newly created international exchange forums on the issue of LGBT+ people deprived of their liberty.⁸
- Young Offender Institutions should be more aware and better prepared to support LGBT+ young people. Special measures and mechanisms should be considered to create institutional environments where LGBT+ young people can build trust and feel safe. This is also a matter of consideration for LGBT+ adults, but given the specific stage in social and psychological development of young people, more attention should be given to prevent increased vulnerability in adult life.

⁸ Efforts are being made by the authors of this report (Fernandes, Kaufmann and Kaufmann) to create an international policy & knowledge exchange initiative. Currently two research projects are being developed in Brazil and India (GCRF funded) and a range of local and international partners are being mobilised towards common agendas for collaborative work.



FULL REPORT

I. LGBT+ People in Prisons: Experiences in England and Scotland

Introduction

This report presents an initial overview of the situation of LGBT+ people in Scottish and English prisons. It intends to initiate a dialogue with practitioners, policy makers, and academics, as well as LGBT+ people. Further work, including more extensive and detailed accounts of our data and existing literature, will be published in peer-reviewed journals. We also intend to produce accessible materials that can be used for training, sensitisation and awareness.

Our study sought to examine how individual attitudes and social interactions as well as institutional policies and structures in English and Scottish prisons might be shaped by discrimination and lack of understanding, and how this influences the experiences of LGBT+ people in custody. A key area of interest in our research was to examine existing policies within the English prison system (HMPPS) and Scottish prison system (SPS). We looked at how consistent policy frameworks are with the most promising international practices. We also examined the extent to which prison staff members feel empowered and educated to support LGBT+ people in custody, whether explicitly related to formal policies or through other means.

Stigmatised groups in society such as LGBT+ people are among those most exposed to acts of violence and discrimination on many levels, some of which are invisible or simply taken for granted within every day, dominant discriminatory attitudes and practices. In their 2017 LGBTI Hate Crime Report, Equality Network found that 64% of LGB people and 80% of trans people in Scotland experienced hate crime at some point in their lives (Pearson, 2017).

Stonewall found that 2 in 5 trans people in the UK experienced hate crime in the 12 months leading up to their 2017 study due to their gender identity. One in six LGB people who are not trans experienced hate crime due to their sexual orientation during the same period (Bachmann and Gooch, 2017). Hate crimes recorded by the police in England and Wales around sexual orientation increased 25% from 11,592 in 2017/18 to 14,491 in 2018/19. Transgender-related hate crimes rose by 37% from 1,703 to 2,333 over the same period (Home Office, 2019). LGBT+ individuals are faced with lack of understanding, prejudice and intolerance, even in the UK which has specific laws and practices in place for the protection of their rights and safety.

These experiences may be exacerbated within the prison environment, where such problems tend to be amplified and worsened. We found that in large measure, prison administrators and managers have good intentions when it comes to promoting equality in general. We also found that many staff have a baseline awareness that LGBT+ people have additional needs and challenges not faced by other people in custody.

Unfortunately, we also observed that like their counterparts elsewhere in the world (Rosenberg and Oswin, 2015), English and Scottish prisons tend to be rigid, hyper masculine environments where the focus is on adherence to institutionalised rules, norms and conformity. Hyper-masculinity refers to the inflation of stereotypic masculine attitudes and behaviours that involve callous attitudes toward women, and the belief that violence is manly, and danger is exciting (Mosher and Sirkin, 1984). In this context, hyper-masculinity does not refer to the gender of the people in custody or managing the institution, but rather the *underlying attitudes and structures*. Masculinity is an issue in women's prisons as well as men's. While the broad issue of masculinity in women's prisons is complex and beyond the scope of this report, Baroness Corston stated in her 2007 report, 'Prison is disproportionately harsher for women because prisons and the practices within them have for the most part been designed for men' (2007, p3). Thus, both men's and women's prisons can display hyper-masculinity. We observed evidence of this in some of the interviews we did in women's prisons. This hyper-masculinity brings with it a lack of recognition and understanding of sexual and gender diversity and makes traditional heterosexuality and binary norms of masculine/feminine conformity the rule.

Consequently, there are everyday practices that contribute in many ways to single out LGBT+ people in prisons as different and dehumanise them. Despite the human rights principle (Coyle, 2002) that the punishment of being sent to prison should not be exacerbated by making experiences within the prison additionally punitive, many LGBT+ people in prisons do experience additional disadvantages simply for being homosexual, bisexual and/or transgender.

This report is presented in six core sections as follows:

1. Terms and Definitions presents a brief overview of LGBT+-related terms and definitions as they are currently used in the UK.
2. Contextual Considerations presents an overview on relevant concepts emerging from literature, both within the broader international context and more specific UK context.
3. Policy Context examines the relevant policy frameworks for prisons and LGBT+ issues and seeks to highlight areas where the literature and policy are not always in alignment and where policy itself may be lacking or not adequately cover all issues directly.
4. Methodological Considerations presents the research design process and methods adopted in the conduction of this study. The section explains our approach to the research and the challenges of interviewing LGBT+ people in prison as well as prison staff in relation to the subject of LGBT+ people in prison.
5. Findings presents our key findings within the primary data collection, through an analytical framework that examined the barriers to addressing the needs and rights of LGBT+ individuals in prison, including issues around violence and

discrimination, but also acknowledges promising practices carried out in prisons in England and Scotland.

6. Conclusions and Recommendations presents our conclusions and recommendations resulting from the previous sections.

II. Terms and definitions

While most people are familiar with the term LGBT and have a basic understanding of what the terms gay, lesbian, bisexual and transgender mean, it is important to recognise that this is a complex area. We will try to explain and contextualise things as much as possible throughout. However, it is important to start by presenting some terms and definitions that underpin the body of this report.

Throughout this work, we have chosen not to use either of the terms *prisoner* or *offender*. Both of these words have been imposed in an institutional context on people who experience the criminal justice system. Where others whom we have quoted have used these terms, they appear in this work as used by the source. We have chosen the more humanising term *people in prison* (or *people in custody*, *in deprivation of liberty* or even, *in institutional confinement*). Sometimes we just say people. In our interviews and focus groups, participants who were in custody are referred to simply as participants, and staff members are referred to as staff participants.

There is a wide range of acronyms used to describe the LGBT+ community. Each has proponents and detractors. We have chosen to limit our acronym to the core of L(esbian) G(ay) B(isexual) T(ransgender) and to include a + to indicate that we mean to be inclusive of all identities and orientations that could fall under this umbrella without creating an unmanageable alphabet soup of initials.

The LGBT+ community in recent years has taken control of the terminology used to describe it and has largely rejected historical attempts to pathologise identities and to apply clinical definitions to lived experiences. This section describes the terms we used and how we used them. These are not exhaustive definitions, and there may be individual LGBT+ people who identify differently.

Sexual orientation, gender identity and intersex status are three distinct things which should not be, but often are, conflated. When we talk about sexual orientation, this is defined by the gender of the people to whom someone is attracted relative to their own. This attraction can be emotional, physical or both. The LG&B in our acronym refer to terms describing sexual orientation.

Lesbian refers to women who are exclusively attracted to other women

Gay refers to men who are exclusively attracted to other men

Bisexual is an umbrella term that refers to people who are attracted to people of multiple genders, all genders, or no gender.

When we refer to gender identity, **we are talking about a person's deeply held sense of self in terms of being a man, a woman or something between or beyond the binary concepts of man or woman.**

Transgender or Trans is an umbrella term that refers to the many diverse people whose experience of their gender differs from the assumptions and expectations attached by the society they live in to the gender they were assigned at birth (Morton, 2013).

Trans people can be men, women or non-binary (those who identify as neither men nor women). They can also be lesbian, gay, bisexual or straight. Being trans is not a predictor of sexual orientation; however, **having a more fluid understanding of one's own gender** can lead to complications for attaching the conventional labels of sexual orientation. Because prisons are strictly binary institutions, non-binary people tend to be forced into one or the other binary gender, or they choose not to reveal being non-binary for fear of creating disruption while in prison, and this structurally erases their identity. Only one of the trans participants in our study expressed a non-binary identity. Further research is necessary to uncover a more accurate number of non-binary people in custody as well as their experiences.

It is important to recognise that, although we often speak throughout the report of LGBT+ people, it is an umbrella term and not a homogenous, interchangeable group. As stated, LG & B refer to sexual orientation while T refers to gender identity (trans people are also L,G,B or straight), and there are instances where reference is specifically made to one individual group rather than the whole. It is also common usage when speaking of LGBT people fluidly to move between LGB, T, and LGBT as necessitated by context. This will be presented as simply as possible throughout this report.

Throughout this report, we will be discussing LGBT+ people's experiences in terms of certain structural concepts.

Heteronormativity refers to the philosophical assumption that all human beings are either male or female, and that sexual and romantic thoughts and relations are normal only when between people of different sexes (Kitzinger, 2005).

Cisnormativity refers to the ideological framework that assumes the correspondence between the designated sex at birth and the legitimate gender aligned with that designation (Rodgers, Asquith and Dwyer, 2017).

Hyper-masculinity refers to the inflation of stereotypic masculine attitudes and behaviours that involve callous attitudes toward women, and the belief that violence is manly, and danger is exciting (Mosher and Sirkin, 1984). Conversations about masculinity within the prison context are often limited by the gender of the people within the institutions. **We believe, building on Smith's conceptualisation of institutional ethnography (2005) that there exists an institutional masculinity that extends beyond the**

actors within the institution to the inherent structure of the institution itself. We plan to explore this concept further in future publications.

Intersectionality

Our research shows that LGBT+ people in prison must be acknowledged on their specificities, but within a spectrum of wider societal disadvantages such as social class, race, and ethnicity. Given the limited size of our sample and the challenges involved in participant recruitment, it was not possible to look at those issues more in depth. However, it can be expected based on other research, that a sample large enough to be analysed would show the confluence of lower education, fragile family status and precarious socio-economic status as issues that combine with gender identity and sexual orientation to increase vulnerability in the life trajectory of the research participants (Day and Gill, 2020). While the unique and often complex experiences and needs of LGBT+ people in prisons have begun to be recognised, particularly regarding intersectional forms of discrimination targeting ethnic or economic background, much of the research into the experiences of LGBT+ people in prisons is relatively sparse and exploratory. This is especially true for younger LGB+ and all transgender people.

III. Contextual Considerations

In this section we examine the existing literature regarding the general nature of prisons in English-speaking countries with similar justice systems to the UK, before examining the position of UK prisons.

Prisons in the international context

Many prisons and prison systems tend to share a number of characteristics that contribute to the specific challenges faced by LGBT+ people in custody. Prisons house

people with a vast diversity of backgrounds, needs, offences and risk profiles. As a result, prison staff face severe challenges balancing the needs of this diverse population with the maintenance of order. Policies often tend to be written with the smooth running of the institution in mind rather than individual circumstances. Historically this approach combined with the constraints of limited staffing and resources, have led to prisons being rigid environments with a strong focus on adherence to institutionalised rules, norms and conformity.

Rigid environments such as these lead to hierarchical power relationships wherein masculinity, as in wider society, is privileged while traits commonly associated with femininity are disdained and devalued as weakness. As a result of feminine traits being disdained and devalued in relationship to masculine ones (Kirk and Okazawa-Rey, 2009), a person's status within this hierarchical world becomes measured by stereotypically masculine traits, including physical strength and physique, the ability to defend oneself, and the nature of the offence that led to incarceration (Mogul, Ritchie and Whitlock, 2011).

The same hypermasculine environment that permeates male prisons and leads to narrow definitions of acceptable treatment of men (Lutze and Murphy, 1999; Toch, 1998) is often extrapolated to women's prisons (Lutze, 2003; McCorkel, 2013). The contradiction is that women are then treated like men but even when they react in kind, there is nonetheless an expectation that they should act according to female stereotypes such as being dependent, or being infantilised as weak and childlike, often by the removal of control and support systems (Lutze, 2003; Crewe, 2017). Baroness Corston spoke of the impact of the masculine nature of prisons on incarcerated women when she said, 'Prison is disproportionately harsher for women because prisons and the practices within them have for the most part been designed for men' (2007, p3). In our view, such dominant masculine structures (Bourdieu, 2001) are the driver for the way prison systems are shape and operate. Such masculine dominating structures become naturalised and taken for granted. This is a main reason why it is so difficult to conceptualise the prison system in alternative ways – prison is fundamentally a masculine-heteronormative institution. These power relationships enforce a lack of recognition and understanding of sexual and gender diversity, and traditional heterosexuality and binary norms of masculine/feminine conformity often become the rule. Despite the existence of mechanisms to protect people in institutional confinement from discrimination and abuse, such as complaint procedures, and external monitoring, negative and stigmatising attitudes in prison further marginalise LGBT+ people in custody simply for being LGBT+ (Mogul, Ritchie, and Whitlock, 2011; James, 2012).

Violence in prisons occurs overtly but also on unchallenged, often invisible levels that are driven by negative social attitudes⁹ and institutional policies and structures. These unchallenged attitudes can seriously undermine mechanisms meant to protect vulnerable and stigmatised groups. Similarly, punishment can be a very relative term in rigid, structured environments such as prisons. Formal punishments may be meted out as known penalties for infractions of particular rules, but informal punishments may result from treatment that appears arbitrary, unexplained and/or at the whim of those holding power. The effects of such informal punishment may be felt on many levels, from loss of possessions or privilege to ridicule or separation from others that impacts upon the **person in custody's self-worth**, personal agency and/or dignity. As a result, the affected person may feel that they are being treated less favourably than others for arbitrary reasons, and it is therefore experienced as punishment.

Homophobia, biphobia, transphobia and explicit violence directed at LGBT+ people in custody is often dealt with by segregating the affected individual for their own protection. However, the segregation units have particular routines and limitations on space and freedom, with the result that people being segregated for administrative reasons do not have substantially different experiences of these spaces than those who have been segregated for punitive reasons (Mogul, Ritchie, and Whitlock, 2011; Read

⁹ In 2015 the Scottish Social Attitudes Survey found that 39% of people in Scotland would not want a friend or family member to be in a relationship with a trans person (ScotCen Social Research, 2017), and in 2016, the British Social Attitudes Survey found that 4% of the British population felt that it was acceptable to discriminate against a trans person some or all of the time (NatCen Social Research, 2017).

and McCrae, 2016). As a result, this is considered a punishment in itself by people in custody (Stevens, 2015) and segregation is a reactive response rather than a challenge to the institutionalised nature of the prejudice itself. Regardless of any assertions by prison managers and administrators that they are acting in the best interests of the LGBT+ person, the reality of the experience of the person is that they are being punished for their identity, and this has a chilling effect on both their willingness to disclose anything about themselves and their overall mental health (McCauley and Brinkley-Rubinstein, 2017; Read and McCrae, 2016).

Unfortunately, it is far less draining on the resources of an already overtaxed prison system to segregate an individual or small group of people than it is to change the underlying culture of a whole institution.

LGBT+ people in custody face further challenges by presenting the criminal justice system with unique issues specific to the individual, such as mental health, sexual health and individual and specific healthcare needs that often necessitate modifications to established rules and procedures, and are often dealt with in perfunctory or cursory ways or ignored (Blight, 2000; Tarzwell, 2006; Coleman et al., 2012).

International Guidelines for treatment of LGBT+ people in prisons

The United Nations (UN) has set standard minimum rules for the treatment of people in prison,¹⁰ and the second rule states that there shall be no discrimination on any grounds and that **'prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings'** (UN General Assembly, 2016, p.3). While the UN has not set minimum standards for the treatment of

LGBT+ people, the Yogyakarta Principles state that 'everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity' (International Commission of Jurists, 2007, p.16).

In recent years, the unique and often complex experiences and needs of LGBT+ people in prisons have begun to be recognised at an international level (Knight and Wilson, 2016). Examples of recent publications include a monitoring guide to ensure the protection of LGBT+ detainees, produced by the Association for Prevention of Torture in 2018 (APT, 2018), and an advocates guide produced in 2014 by the US based National Center for Transgender Equality [NCTE] (Marksamer and Tobin, 2014). These publications are intended to provide clear and practical starting guidelines for ensuring the appropriate management of LGBT+ people in prisons and protecting against discrimination, with the APT in particular aiming to highlight the lack of international standards and encouraging the production of more guidelines on this matter.

¹⁰ UN General Assembly (2016). United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules): resolution / adopted by the General Assembly, 8 January 2016. A/RES/70/175. Available at: https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

These documents emphasise that LGBT+ individuals are at greater risk of finding themselves within the criminal justice system, particularly in countries that criminalise same-sex relationships and gender nonconformity, as well as sex work which is often the only source of income for many LGBT+ people.¹¹ They further emphasise that LGBT+ people in prisons may face intersectional forms of discrimination due to different social identity markers, such as race, ethnic and economic background, with recommendations from both APT and NCTE that LGBT+ people in prison need to be recognised as individuals rather than as a homogenous group. It is also relevant to highlight that even in countries where same-sex relationships are not criminalised, there are other factors that can contribute to LGBT+ criminalisation. For example, the disproportionate rates of homelessness (Durso and Gates, 2012; Tunåker, 2015) and school discipline (Arredondo et al, 2016) among LGBT+ youth.

Furthermore, APT and NCTE recommend that basic training for staff should include explicit references to LGBT+ people in prisons and their needs, and that such training should be ongoing to ensure that LGBT+ policies are followed. Staff should be equipped with the ability to prevent and tackle harassment of LGBT+ people in prisons and understand how to appropriately treat LGBT+ people in prisons in a respectful manner (Marksamer and Tobin, 2014).

Having examined the literature regarding prisons outside of the UK and international guidelines for the treatment of LGBT+ people in custody, the next section will consider UK structural considerations prior to exploring the experiences of LGBT+ people in custody in England and Scotland.

Current research into the UK Context

It has been suggested that much of the existing international research and guidelines into the experiences of LGBT+ people in prisons is relatively new and exploratory (Carr, McAlister and Serisier, 2016) and that there remains a lack of research into how individual countries' policies and practices fit in with these international guidelines. With that in mind, we will now turn our attention to the current UK context. The UK is often seen as a progressive state in terms of LGBT+ rights, as it has laws which prohibit discrimination against sexual orientation and gender diversity and has introduced positive measures for LGBT+ people including marriage, civil partnership and gender recognition. The UK ranked number 9 in the most recent ILGA Europe Rainbow Ranking (ILGA-Europe, 2020). The Equality Act 2010 prohibits discrimination based on nine protected characteristics, including sexual orientation and gender reassignment. The 2010 Act covers protection from direct discrimination, indirect discrimination, harassment, and victimisation. Additionally, the Public Sector Equality Duty contained in the Act requires that the government and public bodies must take proactive steps to prevent discrimination.

¹¹ The stigmatisation of sex work and the intersection of this occupation with LGBT+ people came to attention of the International Lesbian and Gay Association (ILGA). During their 30th World Conference, in 2019, ILGA World considered that the fight for decriminalisation of sex work in the world would be part of ILGA's agenda and approved a resolution establishing an integrative policy allowing sex workers to choose their place, type, and method of work, including the right to refuse clients. Available at <https://ilga.org/sex-work-lgbt-organisations-call-for-decriminalisation> (Paletta, 2019).

Despite significant progress in recent years in both legal rights for and social attitudes towards LGBT+ people in the UK, there remains significant work to be done in this area. Less than 20 years ago it was illegal to teach about homosexuality in schools. Marriage equality for same sex couples was only achieved in England, Wales and Scotland in 2014. Trans people continually lag behind almost every other disadvantaged group in terms of negative social attitudes (ScotCen Social Research, 2012; 2017). The current media climate that surrounds the attempts to reform the Gender Recognition Act 2004 has further magnified negative stereotypes of trans people.

Monitoring of LGBT+ People in prisons in the UK

Although information around the gender and race of people in England and Wales has been collected since the Criminal Justice Act 1991 (section 95), it is only recently that information on the number of LGBT+ people in prisons has started to be collected and analysed by different agencies in the UK (Knight and Wilson, 2016).

There has not, however, been a cohesive approach to monitoring the numbers of LGBT+ people in prisons with regard to sexual orientation and gender identity. From August 2013 the Scottish Prison Service began recording people in prison's gender identities on their prison record system; prior to this the information was only recorded in an individual's file. In 2011 the Ministry of Justice began monitoring the sexual orientation of people in prisons in England and Wales and in 2016 the first statistics on the number of transgender people in prisons were published.

Additionally, it has been suggested that current approaches are inefficient (Dunn, 2013), with particular concerns that there is significant under-reporting of the number of LGBT+ people in prisons. As seen in Table 1, a large number of people in prison have either refused to disclose their sexual orientation, or their sexual orientation is otherwise unknown. Some who identify as LGBT+ may also have chosen to self-identify as heterosexual on monitoring questionnaires when they enter prison (Dunn, 2013). Scotland has had a similar experience with inconsistent or inaccurate recording of sexual orientation and gender identity.

Simopoulos and Khin Khin (2014) argue that LGBT+ people in prisons may be reluctant to disclose their sexual orientation and/or gender identity for fear that they will face discrimination or abuse for their identity. Knight and Wilson (2016) support this suggestion, arguing that a lack of trust in the criminal justice system makes it unlikely that some LGBT+ people will disclose their sexual orientation. This lack of trust is reflected in a survey by Stonewall Scotland in which 54% of 1,043 LGBT+ adults said that they wouldn't be comfortable with disclosing their sexual orientation and/or gender identity in the Scottish Prison Service (Aldridge and Somerville, 2014).

Indeed, the Scottish Prison Service Equality Outcomes 2017-2020 (Scottish Prison Service, 2017) show that only 2.3% of the prison population identified as anything other than heterosexual. This number is far below estimates for the wider population, which has

been estimated by the Office of National Statistics at 4.2% (Office for National Statistics, 2019).¹² Similar numbers were found in prisons in England and Wales in surveys conducted during inspections by the HM Chief Inspector of Prisons for England in 2017-2018.¹³ These numbers suggest a potentially high level of under-reporting of gay and bisexual male people in prisons in Scottish, English, and Welsh prisons.

Table 1. Percentage breakdown of sexual orientation of people in prisons in England and Wales, 2013-2019.

	Jun 2013	Mar 2014	Mar 2015	Mar 2016	Mar 2017	Mar 2018	Mar 2019
Heterosexual	97.0	97.2	97.3	97.4	97.4	97.3	97.3
Gay/Lesbian	1.5	1.3	1.3	1.3	1.3	1.3	1.3
Bisexual	1.3	1.3	1.3	1.2	1.2	1.3	1.3
Other	0.2	0.2	0.1	0.1	0.1	0.1	0.1
Percentage who reported their sexual orientation	57.4	69.2	80.5	84.6	86.0	85.7	88.0

Source: Ministry of Justice, 2018

This raises concerns that the under-reporting of LGBT+ people in prisons may lead to officials in the criminal justice system believing that “we don’t have many here”, resulting in LGBT+ needs being viewed as less of a priority (Dunn, 2013). There is some evidence for this as the HM Chief Inspector of Prisons for England and Wales has stated that, between 2010 and 2015, sexual orientation was the one protected characteristic under the Equality Act 2010 which received the least support (Her Majesty’s Inspectorate of Prisons, 2011; 2013a; 2014; 2015a). Additionally, there is a distinct lack of research regarding LGBT+ people in prisons in the UK (Knight and Wilson, 2016) - a gap which this project seeks to address.

Current research into UK prison environments

While Crewe (2007) questions whether the UK prisons have a similar overt culture of ruthless and uncompromising masculinity as seen in US prisons, Hefner (2017) and Knight and Wilson (2016) argue that the criminal justice system in the UK is a highly gendered environment with a similar culture of masculinity within men’s prisons. Indeed, De Viggiani (2006) found that English prisons fostered an intensely masculine environment wherein people in prisons were pressured to present themselves as macho and misogynistic while avoiding all expressions of weakness.

This sort of presentation involves erasing gay and bisexual identities, driving expressions of LGBT+ identities underground and normalising homophobic attitudes amongst both

¹² In addition to this, it was also stated that 17% of the female prison population identified as lesbian, bisexual or other, while only 1.6% of the male population identified as gay, bisexual or other.

¹³ 19% of female participants identified as homosexual or bisexual, while only 4% of male participants identified as homosexual or bisexual (Her Majesty’s Inspectorate of Prisons, 2018)

those in custody and prison staff. Little support is given to LGBT+ people in prisons to counter these negative attitudes (De Viggiani, 2006, p. 82; James, 2012). The annual reports of HM Chief Inspector of Prisons for England and Wales from 2011 to 2018 support the contention that support for gay and bisexual men is especially lacking (Her Majesty's Inspectorate of Prisons, 2011; 2012a; 2013a; 2014; 2015a; 2016; 2017a; 2018).

Part of our current research is to examine and give voice to the experiences of LGBT+ people in custody around these issues, and to examine the extent to which their experiences bear out these arguments about the masculinised prison environment.

Research into the needs and experiences of LGBT+ people in prisons has tended to ignore the situation of lesbian and bisexual women in prison (Knight and Wilson, 2016; Read and Macrae, 2016). Research into attitudes towards lesbian and bisexual women in US prisons suggests that homophobia is less severe within women's prisons than in men's prisons, with lesbian and bisexual women being more open and visible in prison (Hensley, 2000; Blackburn et al., 2011). Whilst there is very limited research in the UK, lesbian and bisexual women potentially represent a large proportion of the women's prison population (17% in Scotland and 19% in England and Wales according to officially recorded statistics (Scottish Prison Service, 2017; Her Majesty's Inspectorate of Prisons, 2018), though it is accepted, as noted above, that this is likely to be an underestimate given people's reluctance to 'come out' in prison). It is suggested that while lesbian and bisexual women are more open and visible about their sexual orientation than gay and bisexual men, they may receive more abuse and discrimination from other people in prisons and officers as a result (Dunn, 2013).

Research furthermore suggests that within UK women's prisons there is a culture of intolerance towards both sexual and non-sexual physical contact (Her Majesty's Inspectorate of Prisons, 2012b; Dunn, 2013). Notably, despite suggestions that lesbian and bisexual women experience less homophobia whilst in prison than gay and bisexual men, there is evidence that lesbian and bisexual women in prison in UK experience victimisation from other people in prisons on the basis of their sexuality (Her Majesty's Inspectorate of Prisons, 2015b). Again, part of our research seeks to examine the experiences and attitudes of LGBT+ people in female estates around potential discrimination and stigma, and their views on relationships in prison.

Transgender People in Prisons

Inadequate provision of equality for transgender people in prisons could have serious consequences, as Coleman et al. (2012) suggests that transgender people in prisons have an increased likelihood of suffering with mental health issues, including depression and suicidality. Prison is suggested to be a particularly brutal experience for transgender people due to the strict gender boundaries typically enforced in prison (Tarzwell, 2006). One reason given to explain the lack of research centred on experiences of transgender people in prisons is that the number of transgender people in prison in the UK is argued

to be relatively small. As of 2017 the Scottish Prison Service recorded that there were 17 transgender people in prison (Scottish Prison Service, 2017), and as of 2019 the Ministry of Justice recorded that there were 163 transgender people in prison in England and Wales, of whom 130 identified as men, and 30 identified as women and 13 did not say how they identified (Ministry of Justice, 2019). It is notable that for numbers of transgender people in prisons in England and Wales, transgender people in prisons are specifically defined as 'those individuals currently living in, or are presenting in, a gender different to their sex assigned at birth and who have had a case conference' (Ministry of Justice, 2019, p.14), meaning that those who have not yet had a case conference are excluded from current statistics and reports. In this same report the MOJ acknowledges that these numbers are likely underestimated. As such it has been suggested that there may be a greater number of transgender people in prisons in the UK. In its 2018-19 Annual Report, HM Inspectorate of Prison England & Wales noted that in its survey of 5,990 respondents in men's prisons, 2% of people identified as transgender (Her Majesty's Inspectorate of Prisons, 2019). Of 458 respondents in women's prisons, 1% identified as transgender. If those numbers are accurate and representative, scaled up it would mean that there could be approximately 1500 trans people in men's prisons and 30-40 in women's prisons (Her Majesty's Inspectorate of Prisons, 2019). It has also been suggested that some individuals may choose not to make their gender identity known to prison staff for fear of discrimination (Whittle, 2002; Dunn, 2013).

Dunn (2013) has suggested that the relatively small number of transgender people known to be in prison may lead some to hold the view that there is no need to provide specific support for transgender people in prisons. Although it is recognised that transgender people in prisons in the UK may face increased levels discrimination and a lack of support, it is argued that there is paucity of research investigating the experiences of the experiences of transgender population (Poole, Whittle and Stephens, 2002; Mitchell and Howarth, 2009; Knight and Wilson, 2016). It is also suggested that most studies into transgender people in prisons have focused on policy with a lack of qualitative research into how these policies are viewed and experienced by transgender people in prisons (Mitchell and Howarth, 2009; Knight and Wilson, 2016).

Young LGBT+ People in Prisons

There is a distinct lack of research into the experiences of LGBT+ people in prisons in Young Offenders Institutions (YOIs) (Her Majesty's Inspectorate of Prisons, 2018). As previously noted, the number of gay and bisexual men in prison, if the figures are to be believed, is significantly lower than the number in the general population and this is even more so for those aged under 21. However, this may be because it is difficult for young men in YOIs to be open about their sexual orientation (Howard League for Penal Reform, 2015a) as it is an especially 'hostile environment for gay and bisexual boys' (Her Majesty's Inspectorate of Prisons, 2018, p. 67), with previous reports of boys being victimised by both staff and other people in prisons on the basis of sexual orientation (Kennedy, 2013; Her Majesty's Inspectorate of Prisons, 2013b).

Prison Staff and Training to Work with LGBT+ People in Prisons

Although there is limited research into the experiences of LGBT+ people in prison in the UK, some of that which has been conducted has also highlighted that experiences can vary significantly between different prisons (Forder, 2017). Prisons, like the people in them, are not homogenous. Some are specifically for men and others just for women. Young people are usually housed in separate facilities called Young Offender Institutions [YOIs]. In Scotland geographical constraints mean that there are some prisons that serve multiple purposes. Men, women and sometimes young people can be in the same prison. Men and women live in separate units, but management teams oversee all units. This can lead to a variety of approaches and individual philosophies driving day to day decisions. The variety of regimes, management styles and the mix of people in custody can lead to a range of individual experiences of incarceration. It has also been suggested that this variation in experiences may be due to prison staff training and prison **staff's prior experiences with LGBT+ people in prisons** (Poole, Whittle and Stephens, 2002; Lambie, 2012; Marlow, Winder and Elliott, 2015). In a qualitative study of the experiences of prison staff working with transgender people in custody it was found that staff often felt unprepared to deal with transgender issues. In many cases they depended on informal forms of information, including using other transgender people already in the prison to explain their needs (Marlow, Winder and Elliott, 2015).

Similar findings have previously been made by Poole, Whittle and Stephens (2002), who found there was limited information available to staff on how to address issues specific to transgender people in prisons, and that staff expressed concerns around their ability to effectively deal with instances of discrimination. A lack of staff knowledge has also been found during inspection of prisons in England and Wales, with the HM Chief Inspector of Prisons for England and Wales stating in their 2017-2018 annual report that **"staff awareness of how to manage transgender detainees was limited"** (Her Majesty's Inspectorate of Prisons, 2018, p.91). This issue is not exclusive to working with trans people. It exists relative to all LGBT+ people. The Scottish Prison Service found evidence that knowledge and awareness of LGBT+ needs was lacking. 51% of the LGBT+ respondents to their 2017 Staff Feedback Questionnaire said that current diversity training fails to equip staff with necessary knowledge on issues around sexual orientation. 53% felt that current training failed to equip them to deal with issues around gender identity (Scottish Prison Service, 2017).

In addition to a lack of knowledge amongst prison staff, it has been suggested that in some cases staff may view discrimination or harassment of LGBT+ people in prisons by other people in prisons as being an inevitable consequence of LGBT+ people in prisons failing to be appropriately discreet about their identity (Marksamer and Tobin, 2014). Jenness et al. (2007) and Jones and Brookes (2013) suggest that this may be a particular issue for transgender people in prisons as staff may view them as a source of disorder within the prison system, as this system relies on strict gender boundaries to function (Tarzwell, 2006). Finally, it is argued that prison staff work in an environment which is both physically and psychologically demanding, and which is often highly stressful (Steiner

and Wooldredge, 2015), and may impact on their ability to effectively ensure the needs of LGBT+ people in prisons are met.

IV. Policy Context in the UK

Devolved Justice Systems

A common misconception is that there exists a single, consistent justice system in the UK. England and Wales are joined together in the justice sector while Northern Ireland has a completely devolved system that is beyond the scope of this report. Control of the various parts of the Scottish justice system is in the hands of Scottish Ministers and out of the control of the Ministers of the Westminster Government. This has led to two separate bodies managing prisons in England and Scotland. English and Welsh prisons are part of **Her Majesty's Prison and Probation Service (HMPPS)** and Scottish prisons are managed by the Scottish Prison Service (SPS).

Some powers and responsibilities are not devolved and many areas of law, specifically equalities law, remain reserved to the UK Parliament at Westminster. This has significant impact on how the individual prison systems develop policies and practices relating to LGBT+ people in their custody. The next section discusses the legislative underpinning for prison LGBT+ policies and practices in England and Scotland.

Legislative Underpinnings

Equality Act 2010

The Equality Act 2010 is a primary piece of legislation that establishes nine protected characteristics and prohibits discrimination based on any of those characteristics. The Equality Act also establishes a proactive Public Sector Equality Duty, which mandates that governments and public bodies take action to reduce discrimination and inequality for people with any of the nine protected characteristics. UK prisons therefore have a legal obligation to identify and protect LGBT+ people in their custody.

The Equality Act 2010 is reserved legislation and applies uniformly to both England and Scotland; however responsibility for implementing the Public Sector Equality Duty is devolved and is approached differently in England and Scotland. This leads to differences in how each prison system implements policies and practices related to equalities. One significant difference lies in how each government provides resources for implementing the Public Sector Equality Duty. From 2017-2020 the Scottish Government Equality Unit provided nearly £15,000,000 to 25 third sector organisations that focus on the range of protected characteristics. This funding supports a pool of independent, national, critical partners with specialist knowledge of the needs and experiences of people with protected characteristics. These strategic intermediaries, as they are known, are supported to work with the government, public bodies and groups of people with protected characteristics to improve equality and human rights for all.

Two of these organisations, Stonewall Scotland and Scottish Trans Alliance work regularly with the SPS.

The English government does not appear to have a similar national strategy for supporting equalities. As a result, there is less coordination between the government, public bodies and third sector organisations to meet the needs of people with protected characteristics. This structure, along with the significantly larger population of England, makes it far more difficult for any organisation to have the resources to engage with HMPPS on a national scale. Much of the LGBT+ work in English prisons is done by individual activists or smaller, regional organisations. Two of the nine protected characteristics in the Equality Act 2010 are sexual orientation and gender reassignment and thus place a direct obligation on both prison systems to prevent discrimination and improve equality for LGBT+ people. The Equality Act 2010 definitions are:

Part 2, Chapter 1, Section 7:

Gender reassignment

(1) A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

(2) A reference to a transsexual person is a reference to a person who has the protected characteristic of gender reassignment.

Part 2, Chapter 1, Section 12:

Sexual orientation

(1) Sexual orientation means a person's sexual orientation towards—

- (a) persons of the same sex,
- (b) persons of the opposite sex, or
- (c) persons of either sex.

(2) In relation to the protected characteristic of sexual orientation—

- (a) a reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation
- (b) a reference to persons who share a protected characteristic is a reference to persons who are of the same sexual orientation.

The Equality Act 2010 also provides for protection against discrimination based on perception and association. This means that the range of LGBT+ people protected by this Act is broad and is consistent with the most promising international practices.

The protected characteristic of gender reassignment which refers to trans people contains significant details which increase the onus on both HMPPS and SPS to ensure that they have robust trans policies that work for a broad range of trans people. The protected characteristic is defined as 'proposing to undergo, is undergoing or has undergone any process (or part of a process) by changing physiological or other

aspects of sex' (emphasis added). The key details here are that a person has the protected characteristic from the moment they propose to transition, and that there are no physical requirements or milestones that must be met. Other aspects of sex could entail changing one's name and the pronouns they wish to be known by.

Gender Recognition Act 2004

In 2002, the European Court of Human Rights ruled in *Goodwin and I v UK* that as part of a transgender person's Article 8 right to a private life, national governments must have a mechanism by which they can legally change their sex and that there must be protections built in to protect trans people's privacy around their gender history. As a result of this, the UK Parliament brought forward and passed the Gender Recognition Act 2004 (GRA). Key provisions of the GRA include that a trans person may legally change their sex and thus amend their birth certificate by providing evidence to a tribunal that they have a psychiatric diagnosis of gender dysphoria, that they have lived in their identified gender for at least two years, and that they intend for this change to be permanent. Applicants must be over 18 and it is only possible to change from female to male or male to female. There is no provision for non-binary identities. The GRA also makes it a criminal offence to reveal a trans person's gender history if that information was obtained in an official capacity. Exceptions are made when the information on the person's history is needed for the investigation or prevention of a crime.

Like the Equality Act 2010, the GRA has no requirement for a person to have undergone any medical interventions prior to obtaining legal recognition.

Existing HMPPS and SPS Policies

LGB People

Since the introduction of the Equality Act 2010 almost all policy development in UK public bodies contains an element of equalities analysis. All new policies should include an Equalities Impact Assessment (EqIA). The EqIA is an important element that is necessary to determine that new policies do not negatively impact any group of people, but they are not a substitute for robust policy development to improve the lives and experiences of people from historically marginalised groups. HMPPS and SPS do not have stand-alone policies for LGB people. The introduction of same sex marriage in 2014 led to the update of prison marriage policies, which now explicitly include LGB people and other policies include them by inference in the context that all people should be treated equally. There do not, however, exist any policies providing guidance on treating LGBT+ people with dignity within their own context. Computer systems have been updated to collect data on sexual orientation and gender identity. This should provide a stronger case for the argument that LGBT+ people represent a significant group among people in prison whose needs should not be ignored. Unfortunately, as evidenced by the previously discussed discrepancy between the reported numbers and expectations based on broader population figures, it is unclear how effective these systems actually are.

Trans People

Both HMPPS and SPS have more robust trans policies. The SPS policy was introduced in 2014 after a number of years of consultation with a wide range of stakeholders. The HMPPS policy has undergone a number of changes in recent years. A new policy was introduced in 2016 after a number of high-profile suicides of trans women in male prisons prompted a Ministry of Justice review of the previous [2011] policy. The review engaged a wide range of stakeholders from across the UK. This policy was further revised in the summer of 2019 in the midst of a highly contentious debate about trans inclusion in single sex spaces in the UK. **A number of organisations interested in trans people's legal and human rights have undertaken to review the changes to the policy in the context of potential violations of human rights law.** These reviews are ongoing and it is premature to discuss the conclusions they may raise. What is clear from early analysis is that the new policy has fore fronted risk assessment in such a way that, in spite of language implying risk should be looked at both from and to trans people in custody equally, it is likely to be applied with the assumption that trans people pose a risk to others and not the other way around.

Both policies allow for self-identification by trans people in prisons, but the approaches are markedly different. The English policy starts from a default position of allocating people in prisons based on their legal sex and then creates mechanisms by which a trans person without legal gender recognition can make a case that they should be allocated to a prison that matches their lived gender. The Scottish policy on the other hand starts from the default position that trans people in prisons will be allocated based on their lived gender, and that a case must be made by the prison for not placing them accordingly. In both systems, individual prison governors have substantial discretionary power and influence over the decision-making process.

On the surface both policies provide for a process where risk assessment can be central to allocation decisions and this process has been largely effective in avoiding serious incidents in either system when trans people in prisons are integrated with others. In practice, the two different approaches have significant impact on how trans people in each system are treated. In England, a trans person without a Gender Recognition Certificate (GRC) must prove that they should be housed in an estate that matches their lived sex. Although neither the Gender Recognition Act 2004 nor the Equality Act 2010 require medical intervention as a precondition for inclusion under those Acts, the 2019 HMPPS policy explicitly includes anatomy as a risk factor. This creates a potential conundrum where a trans person in custody might meet the criteria for legal gender recognition but not have received a Gender Recognition Certificate and be denied movement to an estate that matches their lived sex based on their genitals regardless of whether they have any history of sexual offending. The HMPPS policy contains a full **section on what constitutes acceptable evidence of someone's gender and life.** Placing the burden of proof on the trans person in prison creates an unequal system where vulnerable people who often have complex and challenging life circumstances must somehow produce satisfactory evidence that is often judged through a lens built on the reviewers' own unconscious bias around gender and sexuality.

As will be illustrated in our findings, there are mixed levels of understanding, among both staff and people in prisons as to how these policies actually work, and what the underlying expectations are. There are also public misconceptions about the policies and their impacts on life inside the prisons.

External Influences

A full understanding of the policy context for LGBT+ people in UK prisons must also include an understanding of recent political developments and how they have changed the perception of LGBT+ people, particularly trans women in UK prisons.

In 2017 both the UK Government and the Scottish Government announced plans to consult on reforms to the GRA¹⁴ to, among other things, base gender recognition on a system of self-declaration in line with the most promising international practices. The resulting debate across both England and Scotland has been intense. None of the proposed reforms would change the Equality Act 2010 provisions that govern trans people's access to gender appropriate spaces. However, some opponents have argued that all trans women in women's prisons are a threat. This debate has moved prison managers in both England and Scotland who tend to be professionally risk averse to consider revising existing trans policies to roll back some of the progress gained in recent years. As mentioned earlier, HMPPS introduced a revised policy in late 2019, and while they have not officially commenced a review of the Scottish policy, the SPS have indicated on a number of occasions that they intend to do so.

As previously stated, HMPPS has recently revised its trans policy. Among the more controversial provisions, is the establishment of an initial two-week period during which a trans person can be held in segregation while prison managers gather evidence pertinent to their placement. When segregated for protection, people are usually placed in the same physical locations that are used for disciplinary segregation. As discussed in the Contextual Considerations section, separation of someone or a group of people for no other reason than their identity is discrimination that is specifically prohibited by rule two of the Nelson Mandela rules, and could struggle to face the test in a human rights court. The creation of trans-only wings of women's prisons has also been advocated in some quarters, and HMPPS has recently opened a wing at HMP Downview. This also amounts to identity-based segregation and would run counter to the protections afforded to trans people under the Equality Act 2010 and under the European Convention on Human Rights.

Both policies allow governors to use the broad discretion granted them to further restrict trans women's access to women's estates. In their current form, neither policy has a mechanism for review of decisions by the individual prison governors short of the trans person taking a case to court. This leads to a situation that is almost impossible to quantify

¹⁴ Scotland held its consultation from November 2017 through March 2018, and the UK consultation ran from August through October 2018. As of the date of this report neither government has introduced legislation to reform the GRA, although the Scottish Government has now also consulted on a potential draft GRA reform bill.

and document where trans people in prison have found it increasingly difficult to be allowed gender appropriate searching or movement to a gender appropriate estate. This has been identified through the direct observation by one of the authors of this report in her interactions with transgender case conferences in the SPS.

It is also worth noting that while location decisions dominate the public discourse around trans people in prison, trans lives are more complex and trans people reported a range of issues related to their treatment that were unrelated to where they were placed. Not all trans people are ready or want to move to a different estate. A person-centred, risk-based approach that weighted equally the risks towards the trans person with the risks posed by the trans person would be able to account for the unique needs of the individual trans people.

Policy Summary

As introduced in the 'Contextual Considerations' section and explained further in this chapter, the UK has clear and robust laws for protecting LGBT+ people against discrimination in prison. In practice, this has meant that prisons in both England and Scotland have fairly detailed policies regarding trans people in custody. The situation for LGB people is more complex. There are no distinct policies on which staff can rely for information as to the needs of LGB people. Instead, they are included within a broader policy framework that calls for fair treatment of all people in custody. This is problematic as we will show in our discussion of our findings because it creates a situation where even staff with the best of intentions struggle for guidance on the right things to do. Guiding documents such as the Yogyakarta Principles and the Mandela Rules clearly state that **all people in custody are entitled to dignity and that respect for someone's sexual orientation and gender identity are fundamental to that dignity**. In light of this, both HMPPS and the SPS have significant room for improvement when it comes to LGB people. They could place themselves at the forefront of the most promising international practices should they heed APT's (2018) call for better standards and more guidelines for the fair treatment of LGB people in custody. Current political forces are also jeopardising some of the progressive elements of the existing trans policies, and more work needs to be done to maintain existing protections for trans people in UK prisons. These policies **are currently under pressure because trans women in women's prisons** have become one of the central points of contention in the current political debate around gender recognition reform in both England and Scotland. It is worth noting that in spite of media characterisations that large numbers of trans women are housed in women's prisons, **there are actually very few trans women housed in women's prisons**. In November 2019, England and Wales reported that there were 163 transgender prisoners of whom 4 were trans women without legal gender recognition housed in women's prisons, compared to an overall female population of approximately 3,800 (Ministry of Justice, 2019). In Scotland at the time of this writing, there were 4 trans women housed in women's prisons.¹⁵

¹⁵ The Scottish Prison Service does not publish accurate statistics on the number of trans people in custody, however one of the authors of this report works directly with trans people in Scottish prisons and is aware of their numbers.

V. Methodological Considerations

Underpinning research questions

The main research question that guided our study was

- What are the key issues faced by LGBT+ individuals in English and Scottish prisons and to what extent their gender identity and sexual orientation is a factor that increases their vulnerabilities? What is being done to address that?

Subsequent to this question, we formulated some specific questions that were addressed in our study:

- What the literature tells about the relation between LGBT+ people and prison?
- What are the existing policy frameworks, both international and national, that provide the basis for prison systems operate and manage LGBT+ people in prison? What are the strengths and weaknesses of these policies?
- What LGBT+ people in prison, and prison staff working with them, can tell about the issues faced to operationalise existing policies and regulations, and to what extent such issues are a factor that compromise the human dignity and the physical and psychological integrity of LGBT+ people in custody?

While the first two specific questions were addressed in the previous sections, with a review of literature, the last question was addressed through primary data collection. Details of this specific stage of our study are explained in this section.

Research Methods

Primary data collection involved qualitative interviews with self-declared LGBT+ people in prisons in in England and Scotland, as well as focus groups with front-line prison staff and individual interviews with prison managers.

- The interviews with 30 LGBT+ people in custody were semi-structured and conversational, centring on issues around their everyday life as an LGBT+ person in custody, specifically but not limited to relationships with staff, peers and the external world (family, friends); support or lack of support from peers and staff; issues around discrimination, abuse and violence; specific needs and how they
- were perceived as being addressed or not; possible barriers to equal opportunities; and potential challenges when reintegrating with the community upon release.
- The interviews with staff involved focus groups with front-line prison officers on the one hand and individual interviews with managers on the other. Both focus groups and interviews followed a semi-structured, conversational style.

- Five individual interviews were conducted with managers, and 29 prison staff took part in five separate focus groups. The focus groups with prison staff sought to explore their perceptions and attitudes towards LGBT+ people in prison and explore issues that in their views affected their everyday work. The interviews with prison management explored their views on LGBT+ people in prisons and highlighted examples of experiences that can be considered 'good practice' in relation to the management of LGBT+ people in custody.

Methods of recruitment are discussed below. On the day of interviews, a confidential list of participants was received along with the time allocated for the interview. Arrangements for interviews were based very much on prison routines and protocols and dates and times could not always be negotiated although a private room was made available in every case. Interviews ranged from 15 minutes to 2 hours, determined by how engaged the participant was and the depth of exploration that they were willing to participate in. Most participants were only interviewed once, though there were single follow-up interviews with three participants about a month later.

In every case it was stressed that their participation was entirely voluntary, that their identity would be anonymised and that they could withdraw from the interview at any point. A copy approval letter of University of Dundee Research Ethics Committee can be found in Annex 1; the Participant Information Sheets in Annex 2a/b; and Consent Form in Annex 3. After informing them about the research, signed consent was obtained. All people in prisons recruited agreed to participate in the research.

Ethical considerations

Ethics approval was obtained from University of Dundee Research Ethics Committee and, subsequently from the Scottish Prison Service Research Access and Ethics Committee (Annex 4) and HM Prison and Probation Service National Research Committee (Annex 5).

Carrying out research in prisons is complex and problematic. The lives and perspectives of people in prisons are hidden from public view, yet simultaneously a 'porous periphery' is maintained by prison staff which shows and maintains a public image of what prisons should be (Piacentini, 2009). Given the unequal power relationships inherent in a prison, strict attention had to be paid to the anonymity and safety of participants, especially given the relatively small numbers of visible LGB people in prison and in particular the very small number of transgender people in prisons, and the risk of retaliation or abuse if they are identified. Similarly, staff anonymity had to be guaranteed to avoid people being identified or targeted.

In order to best maintain anonymity, participants are identified solely by sexual orientation or gender identity, which was the information relevant to the study. Although age was initially a factor in the study, as we intended to focus on younger LGBT+ people

in custody (20-25 years),¹⁶ it was decided to exclude reference to age in peoples' quotes, because it was feared this information could lead to further identification of specific individuals in the system, in particular transgender participants.

Recruitment

The recruitment process differed in Scotland and England. In Scotland, a senior SPS headquarters person facilitated contact with a gatekeeper in every prison. In England, however, direct contact had to be made with individual prisons as it has a much larger estate. In both cases, after the initial contact was made, the following steps for recruitment were followed.

Initial contact with prison staff (generally a senior manager, in most cases the governor or deputy governor) put us in direct contact with a staff gatekeeper. We requested that the gatekeepers were involved in an equality and diversity role, familiar with LGBT+ issues, and able to help identify participants and maintain confidentiality. Once named, the gatekeeper was briefed on the research. It was stipulated as a criterion of the project that only individuals who were openly self-declared as LGBT+ were to be considered, again to avoid exposing people who were not open about their sexual orientation or gender identity, yet might be known to staff (or suspected) to be LGBT+.

A recruitment poster (Annex 6) was used at the discretion of gatekeepers. Where used, interested participants were directed to approach the gatekeeper who would organise a list of interested participants and interview dates. Where posters were not used, we relied on the gatekeepers to approach individuals and brief them on the research. In both cases, we emphasised the need to make it clear that their participation was voluntary, and confidentiality would be preserved. We were aware that power relations between gatekeeper (a senior staff member) and person in prison would have implications in terms of feeling forced or obligated to participate, and that while confidentiality around interview content could be maintained, full anonymity could not, as the gatekeeper was aware of who took part.

We were equally aware that by empowering prison staff as gatekeepers to choose participants, we may not have spoken to some people in prisons because they were deemed inappropriate by the gatekeeper, for any number of reasons, and may have missed voices which were potentially more marginal or critical than the ones we engaged with. Our recruitment process was limited to people in prison who self-identified as LGBT+. This was a strategy to avoid exposure of people who were not openly LGBT+, but we acknowledge the limitation of this approach and the implications of not having the voices of those who may face different issues. Thus, we cannot assert that the experiences captured are fully representative of all LGBT+ experiences in English and Scottish prisons. Given the well-documented constraints on access to people in

¹⁶ Our original plan involved only interviews with young adults, however, in face of practical difficulties to recruit participants at that age range, we decided to interview people in prisons who have had the experience of being in prison at that age (up to 25) at some point in life.

prisons, our research was still successful in capturing a broad range of significant experiences.

Participants

The interviews were conducted by Fernandes (Project Lead) and Ferrier (Research Assistant) during the period of June to November 2018. In total 30 people in custody and 34 prison staff (5 managers and 29 front line staff) took part. Data collection took place in five prisons in Scotland and four prisons in England. Due to the limited size of our sample and prisons visited, we decided to group all respondents as a single category (either staff or person in custody) to avoid any risk of identification.

Our research took place in both men's and women's prisons. England has only one mixed prison where men and women are housed separately in the same institution and Scotland has four such establishments. Some of our research was done in some of these mixed institutions. We have chosen to not provide specific details of the prisons where interviews took place because in doing so we would greatly increase the possibility that individual participants could be identified.

Staff

We spoke to staff who held a number of roles within the prison structure. All of these people influenced directly, or indirectly the day-to-day experiences of LGBT+ people in custody.

Table 2. Role of staff participants

Level	Number
Management	5
Front-line staff	29

Table 3. Time working in prison system

Time Working in Prison System	Number
0-4 years	8
5 – 9 years	4
10 – 19 years	12
20 – 29 years	4
30 years +	4
Not Specified	2

The distribution according to age and sexual orientation and gender identity of the participants in custody was as follows:

Table 4. Age groups of participants in custody

Age Group	Number
20-24	8
25-34	14
35-44	5
45-60	2
45-60	2
Not recorded	1

Table 5. Sexual Orientation and Gender Identity[‡] of participants in custody

Identity	Number
Lesbian*	9
Gay	8
Bisexual (M)	3
Bisexual (F)	4
Transgender**	5
Heterosexual***	1

[‡] Sexual orientation and gender identity are two separate aspects of a person's experience as LGBT+. Trans people can be lesbian, gay, bisexual or straight. Cisgender participants clearly identified their sexual orientation. Trans participants were not pressured to reveal their sexual orientation if it did not impact their experiences as trans in prison, and are thus recorded only as trans.

*One participant who identified as a lesbian discussed questioning their gender identity and considering transitioning to male. **One participant identified as genderfluid and trans-feminine.

There was no further data on transgender participants' gender identities or sexual orientation, and in all quotes, transgender participants are simply referred to as "transgender person."

***One participant identified as heterosexual, yet unsure of their gender identity

Issues and challenges within the interview process

Qualitative prison research requires flexibility, adaptability and sensitivity to work within the limitations around what is possible, available and permitted in a highly controlled and restrictive environment. Despite our exploratory research being as flexible and reflexive as possible, we nonetheless had to adapt and modify aspects of our research process to work around certain institutional limitations to research and unforeseen obstacles that occurred. These will be discussed in this section.

Despite limited time with participants in custody, they tended to be open about their sexual orientation and gender identity and approachable to more personal questions as they recognised this as an opportunity for them to articulate the problems and practical issues affecting being LGBT+ in prison. Nevertheless, issues around interviewer-interviewee power relations, could not be ignored.

- Originally, all interviews were to be carried out by a female member of our research team but due to unforeseen circumstances, our male lead had to perform some interviews including two days visiting a female estate. This imposed

some challenges for conducting interviews with women who may have had traumatic experiences with men, or who simply felt uncomfortable discussing their sexual orientation or gender identity with a man. Although every effort was made to try to mitigate the impact of gendered power relations, a few interviews were short and without any room for development. Nonetheless, there was enough information to be considered useful for the study, and these interviews were not excluded.

- The fact that the interviewers were cisgender and heterosexual may have had an impact on the nature and depth of the responses given by some LGBT+ participants. During some interviews the interviewers were asked if they were from an LGBT+ background and it may have had an impact on the level of openness participants had during interviews. On other occasions, due to unforeseen circumstances, the male researcher (Fernandes) had to conduct interviews with women in prison. During some interviews it was observed that there was some discomfort and in some situations the interview was limited or not as in depth as expected.
- More practical considerations included gatekeepers not always being available on the days of interviews, lack of communication, interviews being cut short because of prison routine and, as discussed in the section on recruitment, issues around potential bias due to gatekeepers being the conduit for participant recruitment.

In our view, these issues do not undermine the validity of the study. Our research design took into consideration the potential issues that could emerge during data collection and the need to adopt flexible arrangements and approaches to accommodate certain situations.

Analytical framework

Our study sought to examine the experiences of LGBT+ people, and how individual attitudes and social interactions relating to LGBT+ people in prisons might be shaped by formal policies, and by the assumptions and attitudes of prison staff. A key area of interest in our research was to examine existing policies within the English prison system (HMPPS) and Scottish prison system (SPS). We looked at how consistent the current policy framework is with the most promising international practices. We also examined the extent to which prison staff members feel empowered and educated to support LGBT+ people in custody, whether explicitly through formal policies or through other means.

The most important facet of our research, however, was to examine the actual experiences of LGBT+ people in custody in England and Scotland, and to contextualise these experiences within what policy says and how LGBT+ people in prison are actually treated. This study was concerned with the experiences of LGBT+ people in custody in England and Scotland, examining their experiences of life in prison as LGBT+ people and focusing on themes of discrimination, stigma and social isolation, lack of support, and areas where they were able to reclaim autonomy and build resilience.

The study also looked at how individual attitudes and social interactions, shaped by the specific microcosm of prison, reinforce discriminatory and prejudicial practices present in wider society. We sought to identify, in the voices of LGBT+ people in prisons as well as prison staff, elements of such prevalent worldviews and attitudes that may disadvantage LGBT+ people in prison. Furthermore, we also wanted to know to what extent people in prisons and prison staff and managers identified implicit or explicit discrimination towards LGBT+ people in prisons, and what was being done to address that. Finally, we wanted to look at the challenges involved for the transition back to community, and the extent to which LGBT+ people in prisons are supported through that process.

This study adopted symbolic violence (Bourdieu, 1989; 2001) as a framework for gauging violence and discrimination against LGBT+ people in the prison system. It is not our intention to explore theoretical concepts in this specific work. That will be reserved to more specific publications addressed to academic public. However, it is relevant to say that symbolic violence accounts to that forms of violence that are not explicitly perceived, but tacitly lived in everyday life, at times incorporated as a natural part of the way relations are shaped and accepted as 'normal'. To that extent, there are 'naturalised' attitudes that are accepted as 'the way it is' and rarely challenged, but instead, incorporated into routines. These compound layers of violence that are not always visible, that are - to a degree - tacitly accepted by LGBT+ people in prison as part of what prison is. In face of extremely unequal power relations, silence and conformity seem to be the strategy adopted by many LGBT+ individuals to 'live with it' and 'bide their time' in prison.

To address the issues discussed above, we adopted an analytical framework in which four themes were identified:

- Theme 1: **LGBT+ people in prisons' experiences of discrimination, stigma and isolation** within prison that lead to feelings of inequality, helplessness and social isolation.
- Theme 2: **LGBT+ people in prisons' experiences around access to appropriate support**, including lack of appropriate support from prison authorities and whether they can find people inside or outside the prison who can help them understand their rights or express their needs to prison staff.
- Theme 3: **How LGBT+ people in prisons share experiences and strategies to build resilience and self-esteem**. Here we discuss how LGBT+ people in custody are reclaiming autonomy over their own experiences which may then be translated into ways of fostering resilience within the existing system, and finding ways of articulating and expressing their rights and needs for care.
- Theme 4: **How institutional structures and individual initiatives are enabling LGBT+ people in prisons to reclaim autonomy and improve their experiences within the prison system**. Here we explore initiatives on the part of prisons and their staff to raise visibility and understanding for LGBT+ people in custody.

VI. Findings

Theme 1: LGBT+ people in prisons' **experiences of discrimination, stigma and isolation**

This section is concerned with those issues within prisons that lead to feelings of inequality, helplessness and social and official isolation for LGBT+ people in prisons. We found that factors around relationships, healthcare, mental health, privacy and prison culture such as banter all play a role in creating discrimination, stigma and isolation leading to negative experiences of LGBT+ people in prisons.

Openness about sexual orientation and/or gender identity

One aspect that influences LGBT+ people's experiences around discrimination, stigma and isolation is the decision about when and with whom to share their sexual orientation and/or gender identity. Deciding whether or not to be open about being LGBT+ in prison is a particularly important decision. Over four fifths of the participants we talked to were open about their gender identity and/or sexual orientation in prison.¹⁷ Among those participants, some questioned why they should act any differently in prison than on the outside. One felt that,

'I didn't think there was a point in trying to hide it... when I came in day one, I was open. I had a partner... who I loved and wanted to be in contact with so I didn't try to hide that from anyone. At the time I wore an engagement ring.... and it allowed me have a conversation started with people.' (Gay man in custody)

Another said, ***'I am gay and I don't, personally speaking I really don't give a shit what people think, that's the way I am and that's it, if they don't like it then they can go and whistle in the wind for me and I'm, I am quite, I am proud to be gay here.'*** (Gay man in custody)

A number of lesbian and bisexual female participants discussed the openness of their sexual identity amongst other people in prison and staff, within the context of intimate relationships. One reported,

'... a lot of people are in your business in here so obviously I was in a relationship here for a whole year and it's everybody wants to get involved in your relationship and it's very mixed up here because we are open all the time so people get involved all the time.' (Bisexual woman in custody)

Another simply stated, ***'I was in a relationship, they knew I was in a relationship'*** (Lesbian woman in custody).

¹⁷ It is relevant to highlight that our recruitment process involved self-declared LGBTI+ individuals. This can help to explain why such a great number of participants declared to be open in relation to their sexual orientation and gender identity. It is also important to consider the variances between adult and young offender institutions, as well as male and female institutions. In our research we found female participants to be more open, and male participants (in particular young adults) more reluctant to disclose their sexual orientation and/or gender identity.

A small proportion (one fifth) of people in prisons we spoke to, however, kept their gender identity or sexual orientation hidden, or were only open about one aspect of their sexual orientation and gender identity while keeping others private. Of these participants who chose not to disclose their sexual orientation or gender identity, they typically gave fear of discrimination or abuse as their reason for choosing to distance themselves from their LGBT+ identity. One participant, when asked about what it means to be gay **in jail**, responded, **'Not telling anybody'** (Gay man in custody)

Other participants felt that, **'If they think that you are either gay, bi, trans et cetera, they are going to target you straight away and it's generally something that is scary'** (Bisexual man in custody), or,

'To go into prison and that and then be in an environment I've never been in before and hearing all these stories about prison and like the showers and stuff like that, it was quite scary. So I never came out when I first came to prison.' (Lesbian woman in custody)

For some participants, selective disclosure of being LGBT+ was sometimes used as a coping strategy to try and mitigate discrimination and abuse. One participant said,

'I'm a gay man. I don't need to publicise it, being a gay man is my choice and if anyone ever asked me if I'm a gay man, I will answer them. But I will not tell anybody that I feel don't need to know. That's my choice.' (Gay man in custody)

It is worth noting that about one fifth of participants in custody felt that it was only during their sentence that they became more comfortable with their sexuality and came out for the first time. One participant said,

'while I was in jail on the first half of my sentence there was someone there who I got on very well with, I was quite attracted to and we started hanging out a lot more like on a daily basis. So that's when I first kind of got into the whole agreeing with that part of me.' (Bisexual man in custody)

Another participant described how they were ashamed of their sexuality and were trying to 'just be just normal' but began to have feelings for their roommate in prison and came out to their parents for the first time while in prison. They described their relief at no longer having to hide who they were,

'I just felt that it was a weight lifted, I wasn't having to hide anything. It felt great because then they knew.' (Lesbian woman in custody)

Some of the participants who were not open about their sexual orientation or gender identity in prison also experienced some difficulties. One felt that,

'I always feel like I'm living a lie' (Bisexual man in custody).

Another participant said that, **'even the people I've made good relationships with, the people that are worth talking to, don't fully know me... I've never said**

“oh, I like women” but I’ve never said I don’t if you know what I mean... I have anxiety from certain things anyway so it [not being openly gay] certainly doesn’t do me any good on that front’. (Gay man in custody)

Some people in prisons, out of fear of discrimination, stigma and abuse, chose not to officially disclose their LGBT+ status on arrival to prison. One participant stated,

‘when I first came in, you tick a box “Are you gay, straight, white” and I didn’t tick gay because I didn’t want, I didn’t know how I would be treated, I did think why should I tell people I’m gay. You know if I tell ‘em am I gonna be badly treated, get homophobic abuse.’ (Gay man in custody)

Another felt that, ***‘when you come into prison and the staff ask you “are you like, are you gay, are you straight, are you bisexual?” ...people aren’t going to answer that honestly to a member of staff because they don’t trust a member of staff.’*** (Lesbian woman in custody)

One participant regretted being truthful about their sexual identity, ***‘I think stupidly when I first came in, I put down on the form that I was gay so on the system there is one gay person on that file, that’s me.’*** (Gay man in custody)

Another felt that, ***‘when you come into prison and the staff ask you “are you like, are you gay, are you straight, are you bisexual?” ...people aren’t going to answer that honestly to a member of staff because they don’t trust a member of staff.’*** (Lesbian woman in custody)

One participant regretted being truthful about their sexual identity,

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Our participants expressed a variety of views about with whom, where and when they shared details of their LGBT+ identity. Something that should not be overlooked is the fact they felt a need to think about this and make decisions at all. In light of the earlier information about negative social attitudes towards LGBT+ people, it is not surprising that many people do think about this, and that this decision can provoke strong feelings, both positive and negative.

Stigma and discrimination

On the topic of stigma and discrimination, a small number of participants felt that they had faced little or no stigma as an LGBT+ person in prison. One participant felt that, ‘I don’t think it affects it, my life as an LGBT person is no different to what it is for a straight person, I don’t see any difference whatsoever’ (Lesbian woman in custody). Some even suggested that others who feel they have faced homophobia or discrimination may be wrong, for instance in one observation,

'A lot of the main issues I've found with the LGBT here are the trans people, they feel they are not being treated fairly, they say they haven't got access to clothing, make up and things like that, but when it's explained to them a bit more you know, they do get access to these items you know and there's a perfectly good charity shop here which sells ladies clothing. So they can buy that as well they have a special catalogues where they can buy clothing and makeup for themselves. So they, a lot of them think they got no access to these until it's explained to them further.' (Gay man in custody)

The participant here, in trying to claim that trans people are not disadvantaged by the prison, reveals a number of layers in the perception of different LGBT+ people in custody to their own situations. He asserts that the trans people are at fault for not knowing that there are things in place to help them. As we discuss later in our findings, there is a gap between the written policies and their implementation based on a lack of understanding by both staff and people in custody of both the existence and the details of the policies. Those charged with the development and implementation of policies are ultimately responsible for communicating with those affected by the policies.

This participant, a gay man, reveals here that the necessary communication has broken down. Yet he does not see this problem as the responsibility of the prison system. Instead he casts the trans people as the problem for not knowing. In his revelation, he also separates himself from the trans people, showing that all LGBT+ people do not necessarily see themselves as part of a homogeneous community. The separation of parts of the community and the assertion that certain people within the community are responsible for their own disadvantage are factors that Michael Schwalbe et al (2000) described as among the ways that marginalised communities participate in the perpetuation of their own inequality¹⁸.

Nonetheless and despite these opinions, we found that a number of participants do feel at risk as members of a minority group. Despite improvements to the way LGBT+ people in prisons were historically treated, there seems indeed still to be a long way to go. One person serving a long sentence recalled,

'you get spat on because of your offence or because they think that you're a poof, or they think you're a faggot, or whatever they want to call you, and it's quite difficult, and I'm going back to 1980, 81, 82, 83, and being homosexual and in jail at that time just wasn't a done thing. You did everything you could to hide it – things have improved but I still think that there's a long way to go.' (Gay man in custody)

Some participants discussed distrust, animosity or even abuse from their non-LGBT+ peers. One participant reflected,

¹⁸ Schwalbe et al describe twelve generic processes by which inequality is perpetuated. Among those are the development of hierarchies within marginalised communities in which some marginalised people align themselves more closely with the holders of power in order to gain actual or perceived advantage over others within the group.

'it's a sad part of the hierarchy system, because at the end of the day if you are in the minority as is sort of said then you are going to be a target' (Bisexual man in custody).

Another commented that, ***'I have no one else because I don't trust anyone else, I don't trust any of the officers or any other people in prison'*** (Bisexual man in custody). ***One felt that, 'Nobody speaks for us, I get abuse every time I walk out of my cell basically [long pause] I just don't feel, I don't feel safe'*** (Lesbian woman in custody).

Much of the stigma and discrimination played out as negative verbal remarks, with humour in particular being described as a tool of discrimination hidden behind a veneer of jokes or banter. While humour can be used as a tool to defuse uncomfortable situations, there are huge variations in meaning depending on context, timing and underlying malice or compassion. For example, one staff member recounted how they dealt with accidental misgendering of transgender people in prison,

'I've known this person as a female, as well as a male now, so, I quite often say she or actually call him by his female name, an [I've] done that, um... but I've apologised, [I've] just said sorry, listen, I just [cannot] get [my] head around this, [I] need [to] get [my] head around this... Cause I'll go in an go, "Right girls, it's time [to]..." an he'll turn round an say, "And boys!" and I'll go, "Yes young man, you get to your cell" an so, we make a sort of, it's a bantery, jokey... much more comfortable situation to be in [with] this person cause I know I'm [gonna] make mistakes, I'm not afraid.' (Prison Staff)

One staff member defended banter as part of prison service, saying,

'a lot of that banter is how we interact with prisoners... you're taking the mick out of them all the time, not in a horrible nasty way, it's... and you'll get it back off them because that's how you get on.' (Prison Staff)

Nonetheless, the inherent power relations involved in banter cannot be ignored. A lot depends on the relative statuses of those making the jokes and those on the receiving end. Indeed, banter and humour is often targeted at vulnerable people in prisons and used as a tool to stigmatise and belittle them. One participant recounted how other people in prisons' banter turned into something that affected them deeply,

'...one of the people in the class found out that I was transgender and I said, he asked me if I was and I said well yeah like I'm not going to hide it so then he started laughing with his friends and he said "oh you're probably only doing that so you can get raped." So and then he started saying all kinds of things. They started like throwing water at me, they started deleting my work, and yeah it was – it made me feel really crap.' (Trans person in custody)

Even where staff members remarked that they challenge inappropriate humour, it nonetheless remains condoned on some level because, as one staff member remarked,

'they do have a very bizarre sense of humour and [you] just get used [to] that, [you] know' (Prison Staff).

Despite staff members' claims that banter is part of a laugh-it-off culture, ***'just, [you] know, deflecting situations an tryin' [to] cope with things'*** (Prison Staff), there is an awareness even among staff that this isn't always the case, and that blanket statements about prison humour being rather rough and tumble don't always address underlying targeting and hurt. One staff participant reflected,

'The thing is one person's banter is another person's bullying, and that's something you've always got to be wary of that, we're probably all guilty of going a bit over the top sometimes' (Prison Staff).

A number of participants commented on the negative aspects of male prisons being heteronormative masculine environments. One participant said that,

'one thing I struggled with but also just mentality of younger lads as well in prison. Everything's just about confrontation, but when I first came in, it was a case, I don't know why but I obviously looked as though I was weak in some way so lots of people made me try to give them things and that sort of stuff.' (Gay man in custody)

Even among some of the lesbian participants in female estates, it was noticeable that some felt compelled, consciously or otherwise, to portray aloofness and reject any suggestion of victimhood or emotional or social fragility, which arguably reflects the hyper-masculine character of the prison system. One staff member suggested that instances of discrimination and violence at the front line were overlooked or tolerated because of the large number of incidences which all needed to be acted on. Furthermore, when action was taken by staff members, one respondent said that often they would not have the support of the Governor.

It seems to be an often-accepted practice in many estates to deal with homophobia, biphobia, transphobia and explicit violence by separating the affected individual for their own protection. One staff participant reported,

'I dare say it, I know they've got somebody goin' through the journey¹... but he's kept in segregation unit all the time, for his own protection [pause] so, I dare say it is still happenin.' (Prison Staff)

This is an example not only of stigmatising the LGBT+ individual for being different, but also erases and removes the LGBT+ individual rather than dealing directly with the prejudice itself. Furthermore, a number of LGB participants felt that transgender people in prisons often faced the most discrimination. Although one participant was of the opinion that,

'...nobody really cares about it, people don't. We've got a couple of transgenders, nobody bothers with it though. I think it's just each to their own, I

don't think anybody really bothers, it's 2018 and there's people like that in here.'
(Lesbian woman in custody).

A number of other participants did state that transgender people in prisons were more discriminated against than others. One participant said,

'one issue that I've noticed with, with LGB in prison is that LGB prisoners don't necessarily understand T, non LGB prisoners definitely don't understand T, just think it's er, it's er, it's a man wearing a bra for the thrill of it or to get an easy life in prison.' (Gay man in custody).

Another said, **'I see it with a lot of transgender people even though I'm not transgender I have got friends who are and they definitely still have prejudice [against them], more so than being gay or bisexual. I think they are slowly, you know being gay and bisexual is accepted now, I know it's not everywhere and there will be problems but I have seen it in prison, outside of prison, people who are transgender face a lot of discrimination and bullying and do you know what it is hard to watch that... You see in prison it is accepted if you are gay or bisexual, it's a common thing, but transgender isn't.'** (Bisexual woman in custody)

One participant felt that the prison system contributed to the discrimination,

'I mean there is there's a somebody in this prison I'm not going to mention their name but who's transgender and I feel absolutely heartbroken for that [girl], the way she gets treated at times is just shocking... it's horrible you know the abuse that sometimes she gets I think is bloody wrong, but unfortunately it's still for a lack of a better word tolerated... It's tolerated, yeah tolerated by the prison system, although they'll sit and say, "oh no we don't tolerate that, we'll stamp on it as soon as we hear it." Bullshit. They can sit there and pontificate all they want, no, I witnessed it.' (Gay man in custody)

Transgender participants described situations where they themselves had been discriminated against or experienced stigma. One participant recounted,

'I think when it comes to like LGBT people in prison, I don't know the situation in women's prisons at all but especially in men's prisons, if someone does identify as transgender, they are considered a freak, they are considered an outcast. People do everything they can to bring this person down [pause] like it's really unfair how people like me do get treated in prison.' (Trans person in custody)

It is interesting that of two staff members, one felt that females in prisons discriminated more against transgender people in prisons than males in prisons while the other felt the opposite. One said,

'Interestingly in the male estate it was the opposite, you know when I worked with the males who had transitioned from females, the males accepted it completely, it's really interesting, you know that males were very welcoming, very helpful towards the gentleman that had gone through surgery the other way, it's really

interesting isn't it that it works like that, you would expect women to have more compassion towards women then you would men towards men.' (Prison staff)

The other felt that, ***'I definitely think there is more stigma in the male estate in respect of transgender... there was two transgender there going through the process and they were being heckled and everything. I think there is much more stigma attached on the male side then there is places like here. They seem to just get on with it here, I've got used to that, just let them get on with it.'*** (Prison Staff)

The source of this observed discrimination seems to be rooted more in the gender identity of the person relative to the other people in custody rather than being a difference between men's and women's prisons. These observations are still significant because they nonetheless accept the levels of stigma and discrimination that remain ongoing against transgender people in prisons, again within a framework of conformity and rules wherein straight, non-trans people are the norm. This in many ways puts the onus and consequences of being different onto the shoulders of the person, rather than focusing on the system's responsibility to promote any sort of equality. The tacit acceptance of this status quo is expressed by one staff member who commented that:

'It's obviously, it's up to them, I just think in this specific environment I don't think anyone would be willing to come out and walk around landings in a – and say yeah I'm gay or I'm transgender as far as because unfortunately with this mind-set of prisons we have here, there's probably going to be consequences for doing that because they just won't accept it.' (Prison Staff)

Experiences of discrimination in Young Offender Institutions

A small number of participants described their experiences of having previously spent time in a Young Offenders Institution. Two female participants who had spent time in young offender accommodation felt that the staff had been generally supportive and approachable in regard to sexual orientation. One participant commented that 'they [young offender staff] were a lot more supportive, you would do more, some of them obviously it's different with different officers but they were more approachable and seemed like they were more willing to help and support you' (Bisexual woman in custody). One participant said,

'in young offenders they, they support you and they don't judge you, they, whatever you think and want to do they will support you through it and obviously when my sexuality came out, they was there for me, they didn't say anything bad and that' (Bisexual Woman in custody)

This is in distinct contrast to the experiences described by a participant who spent time in secure children's homes and a male YOI before being sent to an adult prison. This participant felt that they had received little support while they were in a YOI, and said that,

'It's the staff that mainly got issues with [LGBT+ people in prison], which I thought before I came in would be the opposite way round. But prisoners are more accepting than staff are **definitely**' (Gay Man in custody).

They described one particular example of experiencing discrimination from staff in YOI, Staff members with experience of working in male YOIs also commented on the existence of discriminatory attitudes towards LGBT+ people in prison. One staff member described how an openly gay young person can face violence from their peers,

'like when I went there [YOI] from secure, member of staff knew my offence she was at the computer and was like "oh I take it you're gay", I was like, I wasn't... out, so I said no, and she said you must be you must be, like taking it up the arse and stuff like that. Saying that in front of prisoners to try and embarrass you.' (Gay Man in custody)

'when you had a young offender that was, openly came [out] as gay, ninety-percent of the time, five or six would go [into] a cell and do him, an' that was just because he was gay. That's what happened...' (Prison Staff)

This highlights that there may be significant differences in the experiences of discrimination amongst young LGBT+ people in male and female YOIs.

Theme 2: LGBT+ people in prisons' experiences around access to appropriate support

LGBT+ participants reported issues around a lack of access to appropriate support, including access to anyone who can help them understand their rights or express their needs to prison authorities. This leads to people feeling isolated and without access to anyone who can answer even simple questions about their experiences and needs as LGBT+ people. We found a resulting lack of trust that the justice system might be able to understand or can meet the needs of LGBT+ people, leaving them feeling misunderstood and underserved. These perceptions are relevant to institutional discrimination as well as avoidance and denial of LGBT+ people.

Prison routines and accommodation of LGBT+ needs and rights

Some participants expected prison to be as it is portrayed in media. One reflected, 'I had a view of what prison would be, like *Orange is the New Black* and obviously it was quite different. Some for the better, some for the worse but yeah... no' (Lesbian woman in custody). Another said

'when I came in, I was expecting something that you see on television, something similar to *Orange is the new Black*. But I'm very aware that that, that is American. You see it as a place where you need, where you might need to be a hard man people will get **cut up for no reason, a sort of regression.**' ... 'If anything [Prison name] is not like that, [um] my first week... with the induction programme they had, it felt very much reminiscent almost to my university freshers week just **without the alcohol.**' (Gay man in custody)

The positive perspective of these comments notwithstanding, they do illustrate how prisons and the prison system are largely opaque structures, wherein people have no real idea of how they operate and fall back on suppositions and tropes. One participant said,

'I think, I think that management is only a small problem with it. I think the bigger problem is how the prison system is set up, like it's not set up to support LGBT prisoners as an independent unit. It's set up to support them almost kind of half assed like yeah ok we know what you are but we don't really care.' (Trans person in custody).

This contributes to an environment wherein routines and systems are fixed and conformity is the rule. Exceptions are generally not welcomed, and procedures outside the normal routines are not always signposted or made obvious. One staff member illustrated this by labelling one particular transgender person as troublesome because they had to change their routines to accommodate this person's rights to privacy,

'Well we've got a transgender in the hall we're in. And we need to lock everybody up, when he gets a shower. So we've got to lock all the male prisoners up, at a time designated for her to get a, a shower...so we need to put everything on hold for one.' (Prison Staff)

Not only is the person depersonalised as "a transgender", but the staff participant also goes on to contrast them with,

'other transgender and gay prisoners that I've worked with, they tend to just, go with the regime within the area that they're in, and there's none, if not very little special measures or requirements roundabout the day-to-day processes.' (Prison Staff)

Regardless of whether or not this person has been problematic in the past or for other reasons, there remains a conflict here where their rights as a trans person are seen to be interfering with routines, as well as a contrast between this person and less troublesome i.e. more invisible LGBT+ people in prisons who keep their heads down and don't disrupt established routines. Pressure is thereby placed on that person not to assert their rights but to put them on hold to preserve the status quo. This is echoed by the views of staff participants who said that while being out as LGBT+ in a prison setting was not easy, they had no choice but to conform to the system. One staff participant commented that,

'so imagine in this environment, which is already tense, already, you're already, away from your family, you haven't got the support of a loved one, apart from on visits. I imagine coming out in this environment is very difficult and living as a gay man.' (Prison Staff)

Staff members also acknowledged that remaining hidden about one's sexual orientation or gender identity in prison was equally difficult. One staff member felt that

to 'not be yourself I think it's gotta be harmful for your mental well-being, because then you go out of prison again you're like, 'oh, back to **how I was before**' (Prison Staff).

Even when sympathetic, however, staff views were dictated by their own perceptions and experiences of managing large numbers of people in prisons, painting LGBT+ people in prisons' experiences in the narrow terms of prison culture without understanding what it is like to be LGBT+. In one discussion, two staff members drew their own conclusions about the motivations for the behaviour of gay prisoners by saying,

'If, if you're like a kinda big player in a hall an' a lot 'o people'll do a lot for [you], like runnin' [about], tobacco, sweeties, whatever they go for, drugs even, uhh, an you're shown to be gay, then somebody might look upon [you] an say, why's he tryin' [to do] this, [I'm gonna] go over an take him out cause he's gay. That's as simple a reason there is...' (Prison Staff)

'And there are some strong players who are gay, but maybe not openly gay, but they're gay. And they will use violence as a way of [pause] stoppin' people, so they, they'll go in an get, get the violence in first, [yu know what I mean so, then it's a case of, he's a nutter, don't go anywhere near him, an then it covers their, their sexuality.' (Prison Staff)

How, to whom and when an LGBT+ person reveals their identity is a complex personal experience and cannot be simplified into the context of the often tolerated violence within the prison.

The culture of indifference, acceptance of things as they are and some compliance with underlying peer violence "as part of the system..." symbolises the general lack of support for the individual in prison, particularly if they're LGBT+. One said,

'[b]ecause the staff don't understand it and they see it as a joke if you like and I think the more they know your face because you're known to the prison system the more that if you go and ask for support or they see that you're down, the more that they think they don't need help or support because they're ok, they're known to the system.' (Lesbian woman in custody)

Another stated, **'I don't think this place is good for rehabilitation; no-one really helps you.'** (Lesbian in custody) This was echoed by another participant who felt that, **'it just seems to be if you are a minority then you don't really get heard.'** (Trans person in custody)

Staff capacity to address LGBT+ issues

Underlying the general feeling of there being a lack of support, is a further feeling that many members of staff neither care nor have any particular insight into specific LGBT+ related issues or even the most general knowledge around what LGBT+ acronyms stand for; what it means to be LGBT+; and what an LGBT+ identity is. This lack of knowledge on

the part of the staff, as well as on the part of other people in prisons, was frequently brought up as a barrier to support? for LGBT+ people in prisons.

Furthermore, with regard to general complaints as well as complaints about homophobia, biphobia and transphobia, the system was perceived as inflexible and uncompromising. One participant said,

'I've noticed if you try and challenge it [homophobia], especially SPS, they'll fight back and they're always the winner so there's no point in it' (Gay man in custody).

Another noted that, **'...you are without a doubt seen as, if it comes to an officer's word and a prisoner's word, you are automatically sort of not believed. I mean it does put you off reporting things if anything happens... it's almost like there are,** there are policies in the prison system that exist purely to make you remember your place, and you feel that you, your opinion and your feelings **aren't always valued... And it puts you off reporting things because you might not be believed just because you are in prison, now that doesn't mean you are any less than a person, you know it doesn't mean you are any less of a person but your input might not be valued and your report might not be valued just because you are a prisoner and that does put you off reporting things.'** (Lesbian woman in custody)

The lack of staff knowledge and unwillingness to fully engage with LGBT+ knowledge encroached upon the rights of LGBT+ people in prisons. Transgender people in prisons in particular experienced difficulties in accessing support with transitioning as a result of staff not having enough knowledge. One participant recounted,

'this girl who wants to be a boy, wants to be a man, none of them know anything about it, you know they don't, they, I got told can you speak to this ___, wants to talk about change gender blah blah blah because she is obviously going to start to go through transition at some point, and none of the staff know not a thing, they had to get something printed out to sort of talk. So no one's trained in that, so they are not trained in anything to do with like you know being lesbian, bisexual, gay, anything, so they don't know what, they are not trained in a lot of things like even mental health and stuff. To be fair, they could do with a lot of training because this, this girl in particular, like obviously she is going to have a lot of mental health probably issues, a lot of things going on as to being like you know having gender reassignments stuff and there's no one knows anything? They can't help her.' (Lesbian woman in custody)

Another participant said, **'I'm trying to go transgender but think I've nobody to help for it, and in here they don't have any... I was outside speaking about it to my psychiatrist but it didn't really help us because I was on a waiting list, but before that I was meant to go before I came in here but I'd already gone to jail so I didn't go.'** (Lesbian woman in custody)

Even in instances where assistance is given, it is often perceived as grudging or only given to a handful. Participants again referred to the specific problems that transgender people in prisons had with receiving an adequate minimum of assistance with their needs,

One said *'A lot of the main issues I've found with the LGBT here are the trans people, they feel they are not being treated fairly, they say they haven't got **access to clothing, make up and things like that.**'* (Gay man in custody)

Another commented that, *'**maybe follow the protocols a bit more tightly, cause I like wigs but they've told me I can't have one because I have hair*** (Trans person in custody).

Another participant said, *'**I'm allowed to shower at different times like the door would be locked behind me... So I shower at different times, I should be allowed different like ordering catalogues to get clothes and things like that but I've been waiting for a year and still haven't got it.**'* (Trans person in custody)

This illustrates how even where protocols and procedures are in place, they aren't always followed or only in half measure. This extends to mental health-related problems, a subject raised by a number of participants. One said that they,

*'**went to mental health in here and they said that I was probably just best waiting to go out and sort it, which wasn't very helpful**'* (Lesbian woman in custody).

Another felt that, *'**within the prison environment, trying to get somebody to listen to your mental health problems or the difficulties you are going through is really frustrating, unless you have got something physically wrong with you.**'* (Trans person in custody)

One other participant said, *'**Like I have asked before, when I was going through a bit of a bad time, I asked for help and everything and it wasn't very forthcoming, like I had to get into a really bad place before anyone really did anything and I think you know, especially if someone is asking for help, they need to really try.**'* (Bisexual woman in custody)

Some of the participants laid the onus for the lack of adequate support on the staff and the prison system. One said,

*'**I don't think the staff have got great training regards mental health because sometimes their answer to that is just to put somebody down the seg, like down the care and support unit, they will just put them down there and maybe have them on watch... So mental health issues is not great here because you can be left and things can happen, I mean someone did kill themselves on my last sentence here and they weren't found for three hours, so and they hung themselves in the wardrobe.**'* (Lesbian woman in custody)

A number of staff described job-related stress and a lack of funding and resources. One staff participant said,

*'You have got HR issues, budgetary issues, incidents, so there is a whole raft of **things that happen**' (Prison Staff).*

Another felt there were, *'**Just not enough resources to achieve all th**at everybody wants, so you get a lot of officers get pulled from pillar to post just to make sure that the targets are achieved rather than making sure that we have got enough resources that we can fit, do these targets comfortably, and look after the **women's wellbeing as well.**' (Prison Staff)*

A number of staff participants also cited staff shortages as a problem. One said,

*'**Yeah staff shortages, it, we used to be able to talk to them a lot longer, we used** to have a little bit more free time and I think we knew more that was going on in **the prison but now you're tied to either high maintenance prisoners either discipline or self-harm as an addict, that you get taken away from the rest of the prisoners.**' (Prison Staff)*

There was a feeling among some of the staff participants that staff shortages and lack of training, along with dealing with violence issues, have a direct impact on equality and diversity issues. One staff participant said,

*'[You] just learn to develop your skills as you go along, so you're just, you're building blocks yourself as [you] go along, training yourself as [you] go along, an **that's why we make mistakes like, callin' a she, he or a he, she, or, [you] know, not understandin' em. An' I'll give [you] an example of that the... [um]... the** eh, female-to-male **that's in the hall at the moment, has been given a male genital** to wear in her underwear, and, [um], **[laughing] ma biggest concern is that he'll walk down the landin' an it'll fall down the bottom [of] his joggers, an' I don't know how [to] deal [with] that, so, instead of bein' really ignorant about it, I went and spoke to him about it an said, "Right, what you need to do is make sure that it is held in place, cause I genuinely [do not] want [to] be walkin' along the landin' goin', who's, who's is that?"'**' (Prison Staff)*

Another staff participant said *'**An also, it's sometimes not a priority. I mean, you work in an area, violence, drugs, weapons. Whether the guy's called a he or a she, it's not that important really, in our point of view, 'cause the first thought is safety and risk. So, as a result, [you] think, "Oh it's quite low scale on the priority.**' (Prison Staff)*

Challenges for policy implementation

The first section of our discussion of theme 2 highlights a number of systemic issues. One issue is that, in addition to the training and operational issues mentioned above, there is

still a systemic reluctance to engage with policies and practices that support LGBT+ related issues because they interfere with the prevailing one-size-fits-all procedures that characterise the prison system and which discourage exceptions to the norm. One staff participant said,

'We have processes so we've got lots of systems so if said prisoners were to, say, being bullied because of their sexuality ok, we have a process in place to deal with that and that would involve supporting the victim and dealing with the perpetrator so that's called a violence reduction plan ok but it's also called a support plan.' (Prison Staff)

In contrast, however, another said that regarding the existing policy frameworks to protect LGBT+ people in prison,

'To be honest, I don't have a massive understanding of it so I am really not sure, I just know that you know, we'll set out to protect and do whatever we can for the women in our care, so yeah I don't know much about it to be honest so I can't really comment.' (Prison Staff)

Another issue is that the lack of knowledge about mental wellbeing and LGBT+ issues amongst the staff leads to procedural shortcuts, resulting in LGBT+ people in prisons having to take the initiative around their own care. One staff member mentioned, cited in the previous section, that it is accepted practice to deal with homophobia and violence by separating the affected individual for their protection, which stigmatises and punishes the LGBT+ individual for being discriminated against rather than dealing directly with the prejudice itself. A participant described the difficulties of learning how to access support and what one is entitled to:

'No, I don't think you ever have a complete understanding of it [policies and documents on rights] not until months later when you read through it on, or unless it becomes an issue for yourself.' (Gay man in custody).

There is a deeper issue at play, however, in that the staff seem not to have a comprehensive understanding of LGBT+ issues, which means attitudes can be homophobic, transphobic or biphobic at worst and indifferent at best. One staff respondent felt that,

'Sometimes we slip up, [and] unfortunately and sometimes maybe in my personal opinion is that sometimes the LGBT community, [you] can slip up, [you] can actually get in, in a bit of trouble 'cause, they're a bit more sensitive.' (Prison Staff)

This demonstrates a lack of knowledge or understanding of the challenges faced by the LGBT+ community, reducing it instead to a perception that some people in prisons are more sensitive than those who keep their heads down and conform. Similarly, there is a misconception that equality means treating everyone the same, rather than giving equal credence to different people's needs. This view is echoed by one staff participant who said,

'They [LGBT+ people] ask to be treated the same as everybody else, they don't want to be different to anybody else, so why should we treat them differently... I just think that category of people, they want to be treated the same as what you treat anybody, so by having special training you don't want to be treating them any different to what you treat anybody else.' (Prison Staff)

Distinctions like this are even made by staff around the LGBT+ people in prisons, in effect ignoring that different individuals and groups will have different needs?

'I think from the point of view of the lesbian and gay part of it though, it doesn't cause any issue at all, it just, we just... they are worked with in the same way as any other, yeah, we're getting a wee bit tied down in the transgender 'cause we have so many of them in here. But in general the gay population throughout the prison are just dealt with the same way as any other prisoner on a day-to-day basis and don't cause us any other, major issues.' (Prison Staff)

There is also evidence of a depersonalised way of referring to LGBT+ people in prisons. For example, negative verbal remarks may result in erasing LGBT+ people. Such remarks can be a result of staff failing to acknowledge their own positions of power and privilege in relation to people in custody, as illustrated by this staff respondent's comment:

'and this trans woman has still got her penis, so it's like right so then it kind of, it's about our rights as well...what about me? And I am just to put all of my thoughts and feelings aside and just be professional?' (Prison Staff)

We acknowledge that some staff, like the one above, may feel under emotional distress by dealing with complex situations that they are not prepared for. Such a distress, however, is also result of lack of understanding and sensitiveness to issues that demand better preparedness. Equally, it reveals traces of prejudicial attitudes observed in the wider society and reproduced at micro level in an environment where people affected by prejudice are in extremely vulnerable position. Managing emotions in professional practice is essential to ensure that discretionary powers are applied to secure and maintain the rights and dignity of vulnerable people. This reinforces the need for better training that addresses critical issues of widespread prejudice and lack of understanding that prevents staff from having a different attitude towards LGBT+ people in custody. In some cases, direct homophobia, transphobia or biphobia on the part of staff is expressed as sensitivity to the culture and upbringing of people who are not LGBT+. In these instances, staff are essentially choosing to rank one disadvantaged group over another. One staff respondent said,

'you can't say to someone you must respect gay people, you must like gay people, because from a lot of cultural backgrounds being gay is wrong... and I think if you've been brought up with that mentality by your parents, it's very difficult to then say, oh, do you know what I'm going to embrace everyone now.' (Prison Staff),

They continued, ***'I mean it, it is, it's quite difficult, you can write a policy and say we should all be nice to each other, we should all take each other's feelings into consideration but ultimately if people don't wanna do that, they're not gonna.'*** (Prison Staff)

Even where relatively benign or even positive things are said, there still remain examples of depersonalising language despite the assertion by staff that there is no separation or discrimination. One staff participant, despite expressing relatively positive sentiments, still referred to transgender inmates as "transgenders" when they said,

'However, in the female population right at this moment we have two female-to-male transgenders, um]... and two, [um], male-to-female transgenders, one who is post-op, one who is pre-op, but both live their life as females, and they are all dealt with as females or males everyday [with] every member [of] staff in the hall...' (Prison Staff)

Depersonalising language, even when not backed up by malicious intent can do harm to the person who is the object of the language. It reminds them that they are different and contains an underlying message that this difference makes them less human than others. While unintentional, use of this type of language does perpetuate discrimination (Schwalbe et al, 2000).

Theme 3: How LGBT+ people in prisons share experiences and strategies to build resilience and self-esteem

While more brief than other sections, this section is nonetheless important in that it identifies places where LGBT+ people themselves come to question their situations within impersonal structures, and begin to articulate practical ways to deal with feelings of helplessness and powerlessness. They also find ways to build the skills to advocate for themselves about priorities, rights and concerns, as well as inadequacies in the prison system.

A number of participants in custody stated that they were not aware of LGBT+ rights, but often those who did have held positions of awareness such as LGBT+ representatives¹⁹ in their respective prisons. A number of participants felt that there should be more information available for people in prisons, and that this information should be easily understandable. One complained that although material was available, it wasn't necessarily relevant to their situation or in a format that was easily accessible,

'we need more literature on the subject as well because like in the library you can get leaflets or booklets like for say for this, this young girl that is transgender,

¹⁹ These LGBT+ representatives perform a range of roles, from the more informal, such as making the bridge between LGBT+ community and prison staff by simply having a more open and direct line of dialogue with staff; to more formal roles, such as running LGBT+ support groups and activities that are officially supported by the prison management.

there's no books or anything or literature like leaflets or anything, so if there's more leaflets to do with LGBT and trans, anything more things to read up about.'
(Lesbian woman in custody)

One participant echoed this view by saying that one of the policies could be taken from its current size and cut down dramatically,

'it doesn't exactly explain much of the subject unless you're willing to go grab the NHS stuff and go through that yourself, and that's a nightmare because I've done it.' (Trans person in custody)

The agency of LGBT+ people in prison

The knock-on effect of the lack of staff knowledge about mental health and LGBT+ issues, combined with casual overt and tacit attitudes of discrimination, dislike and indifference to LGBT+ people in prisons' needs and dignity, has resulted in LGBT+ people in prisons having to take the initiative. Whereas some staff participants felt that access and support depended on individual people in prisons taking the initiative to access services and information,

'If you know what you need, I think you can access anything you want from this prison if you're asking for the right person and asking for the right things' (Prison Staff).

This view ignores the power relationships inherent in the prison system – staff member – person in prison triad. One participant described the difficulties of learning how to access support and what you are entitled to:

'No I don't think you ever have a complete understanding of it [policies and documents on rights] not until months later when you read through it on, or unless it becomes an issue for yourself.' (Gay man in custody)

A number of participants felt that having an LGBT+ group or network could improve their awareness of their own situations and rights within the prison system. One participant remarked,

'I think one of the major things I've noticed in the prison rules they've got stuff against folk being racist, there's signs up on the wall about that, bullying and that but I've not seen... I've never seen any rules saying it's against the rules to be homophobic or stuff like that.' (Gay man in custody)

This person illustrates how, within the prison system, a visible characteristic such as race is more likely to be dealt with. It is still dealt with on a surface level, however, by simply having rules around do's and don'ts without necessarily making attempts to promote knowledge and awareness of the affected groups to foster a sense of inclusivity. One participant echoes this by saying,

'they don't promote it, if I am honest, they don't promote relationships or the gays, lesbian, bisexual whatever, transsexual, there is a transsexual group in here, they don't, there's no support or anything like that, nothing.' (Lesbian woman in custody)

Some participants took this a step further, complaining that even the structures within the prison system for promoting equalities feel like lip service. One participant noted that,

'the equalities stuff here isn't very established, there's a meeting once a month but once that meeting is done, it's kind of done to the next meeting' (Gay man in custody)

Another said, **'Erm yeah I think there could be improvement, especially with like LGBT, there is not enough awareness I don't think, we don't do any sort of events to raise awareness and stuff... I think it needs to, I think there needs to be more awareness about where you can go for support and the type of problems that people from that community can face in jail, maybe some more training and stuff like that.'** (Bisexual woman in custody)

There were a number of instances where participants became aware of inconsistencies, or where oversights or breaches of protocol on other people's parts impacted negatively on them. One participant summarised the sense of frustration and helplessness around the lack of official support, as follows,

'so they are not trained in anything to do with like you know being lesbian, bisexual, gay, anything, so they don't know what, they are not trained in a lot of things like even mental health and stuff... They can't help her.' (Lesbian woman in custody)

Relationships

Overt sexual activity is banned by prison rules. Particularly in male institutions, enforcement of this can extend to non-sexual activities like hand-holding. The extent to which individual prison staff tolerate certain activities varies, and some express ambivalence about having to enforce the Decency Code:

'I don't think there's a stigma out there for like gay prisoners, I don't think there's, you know it's totally accepted with other prisoners that there's gay prisoners in [the prison]. I don't think that's the issue and I do agree with you, you know the only sort of issue we get is we have to go around and say can you stop holding hands, can you make sure that you, you know they are not supposed to show any kind of like intimate relationship because it is a Decency Policy that the prison service has got. So the only issue that they have got really, is they can't or they shouldn't be having sexual relationships [in the prison] because it's against our Decency Policy, whereas obviously on the out it's entirely up to them but there's

no stigma as far as I am aware within the prisoners with other prisoners being gay...'(Prison Staff)

Relationships in general pose a far more complex challenge and tend to be managed in a case-by-case manner. Factors that are often cited for decisions around allowing relationships include whether or not there appears to be coercion involved and whether one of the parties in the relationship displays any vulnerabilities.

The lack of consistent practice across the various prisons regarding how relationships should be handled has led to a situation that relies heavily on the discretion of individual prison managers. This arrangement creates an environment where the individual decision-maker's biases including their unconscious biases come into play. It is the uncertainty around this structure, or lack of structure that is reflected in this section.

Relationships in prison made some participants question the logic of some of the rules and the ways they were enforced. There was a sense of frustration at relationships with other people in prisons being disallowed or not being allowed to continue. One participant said,

'I think the staff are quite discriminating against, like, relationships in prison and like I've just been brought here and me and my partner have been split up, she's my cody [co-defendant] but when we first landed when we first came into prison, they split us up and put us on different wings and said that they don't like relationships in prison.' (Lesbian woman in custody)

Another was particularly critical about the intervention of staff and the way they tried to tell them how to feel:

'If you find someone, you fall for someone, you fall in love with someone, man, woman whatever, but you are in prison. They will try and say "you are in a bubble, you are not in the right... environment" thing but you still have feelings, you still have emotions, yeah. So whether you are in prison, whether you are [in the community] you are still going to be feeling the same, these officers don't know, they have never been like this, so for them, because I was in a relationship with someone... had an officer there saying "you have got to split up with her, no good, blah blah blah, you don't love her" all of this crap yeah. He doesn't know nothing, he doesn't know me, he doesn't know what I am feeling, why are you trying to destroy my relationship?' (Lesbian woman in custody)

The sense of frustration was highlighted by the sense that a number of people in prisons were in same-sex relationships but were not viewed as being gay, lesbian or bisexual. One participant couple who were interviewed said that, '[girls] in the hall just go away with fucking Tom, Dick and Harry, do you know what I mean, just to get their fannies out, do you know what I mean.' (Lesbian woman in custody). Another participant said, 'the majority of the time people are just, they're not gay, they just want to pass time, they've got partners outside, men and that so they do it for comfort' (Lesbian woman in

custody). On the one hand, these people in prisons were regarded as apart from the LGBT+ community and therefore not subject to the same discrimination and difficulties the prison system imposed on LGBT+ people, yet still enjoying the privileges of relationships. On the other hand, they were also in some cases blamed for restrictions which officers had placed on intimate behaviour.

It was around relationships and officers' decisions to break up relationships that much of the logic of the prison system was called into question. Apart from the humane element of allowing relationships within a dehumanising system, participants questioned the logic underlying their decisions to break up relationships. One person took issue with the one-size-fits-all approach within which decisions get made:

'in here it's not illegal, against rules, for prisoners to have sex with each other but if they catch you carrying out a relationship with someone they'll be moving you down different halls so you [can't], and now you can try [complaints] but nothing will happen.' (Gay man in custody)

Another felt that apparently arbitrary enforcement of control over relationships actually causes more problems than it solves,

'say if I knew someone in jail... who I knew I liked and we started a relationship in jail, if the prison found out about that they'd move one of us to a different wing or possibly to a different jail which then all they're doing is creating a lot of anger towards the prison staff, which then ends up in prison officers being hurt or other prisoners being roped into arguments and fights and it just it's something that does need to be looked at.' (Bisexual man in custody)

Yet another participant called into question the contradictions of providing protection and information regarding sexual health, if officers are going to break up all relationships,

'But to be, for prison to say they don't agree with prison relationships and they don't approve of them and they don't encourage them and then you've got the healthcare team wanting to give you sexual like things for you to use, that's like contradicting itself.' (Lesbian woman in custody)

Some participants did express the opinion that it may be best to try and prevent relationships, in order to prevent hurt should one or the other partner be transferred or released, or in case one of them was being taken advantage of. One participant said of relationships,

'Yes because obviously, if someone gets into that position then it's not nice to have to hold back because of a system but no because of what would happen in here. You know happen to people, if one of you gets transferred off somewhere and you split up you would never see each other again.' (Gay man in custody)

Another worried about whether it is a real relationship or whether one of the people involved will be groomed or taken advantage of:

'So I don't agree with sexual activity in prison anyway because even if you are happy to have a sexual relationship with that person, one night you might not want it, that person does, the door is locked, who is going to stop it?' (Gay man in custody)

This defence of the system by some people in prisons mirrors an overall heteronormative assumption that on some level homosexual relationships are not as legitimate as heterosexual relationships. Because some relationships in prison are actually exploitative, this can be used to back up the staff rationale for breaking up these relationships.

Ultimately, however, there was a feeling among a number of participants that it was the rigidity of the prison system and its concomitant artificial structures that led to relationships being discouraged across the board rather than examining where the system could be humanised or improved. As one participant said,

'I would say that they've still got their head in the dark ages. So really there needs to be a wee bit more understanding regardless of you know where people are some people will want to be satisfied sexually and my philosophy is that as long as they're consenting, so long as it's appropriate then there shouldn't be an issue with it. It's when it's forced, it's when it's inappropriate that's when problems come in.' (Gay man in custody)

Some participants also questioned the way that privacy was used as a way to enforce the system rather than support the person.

One participant mentioned an incident where the mistake of a staff member led to them having to sit in on their private appointment with a medical professional:

'They're meant to have a long chain, which means they sit outside the door, they still do their job but the dumb dumbs forgot the damn thing this time, and they said to me "Look, you've got to sit in on this."... I said "That's not my problem, that's yours." I said, "I don't care..." They asked me questions about sexual orientation, all the things we do in the bedroom, to what I get up to with my new partner, so I gave them the blunt and honest answers.' (Trans person in custody)

The same participant recalled being placed in segregation for their own protection while fully aware that the rules were being applied in a way that served the system at the expense of the individual, rather than the system being examined to find other appropriate ways to deal with similar situations:

'technically I should be under what they call a Rule 951 which means I'm segregated from other people for my own protection and to protect those involved basically, but that's a lot more difficult because I've got no management problems along that line while being in custody... Technically because I haven't

*had my {assessment} finished yet I should be behind my door 23 hours a day but **the staff and I'll give them their due... they're doing everything they can to shift me... bit of a mind fuck, it really messes my head up...*** (Trans person in custody)

We see how LGBT+ people in prisons question the logic and appropriateness of what appear to be arbitrary and/or rigid rules, particularly when their existence as LGBT+ people is minimised or erased in the face of hierarchies that care little for the individuals themselves. Even staff participants who identified as LGBT+ expressed some ambivalence about their own place in the system, albeit in a position of more power than the people in prisons, yet still part of a marginalised group. One staff participant who identified as LGBT+ said of other staff members' opinions,

'I think that it's been a mixed reaction by all, everybody is entitled to an opinion, so I don't get hung up if somebody is against it or if somebody is for it, as I said they are entitled to their own opinion.' [speaking in reference to their own sexuality] (Prison Staff)

Much of LGBT+ people in prisons' safety, care and needs have been ignored, actively undermined by the prison system, and effectively placed into their own hands. It also serves as a foundation for examining the ways that LGBT+ people can build their resilience within a system that actively undermines them.

Theme 4: How institutional structures and individual initiatives are enabling LGBT+ people in prisons to reclaim autonomy and improve their experiences within the prison system.

LGBT+ people in prisons are doubly disadvantaged by lack of staff knowledge and insight around LGBT+ issues, and by a lack of knowledge regarding their own rights and

access to information. Particularly notable is the situation of transgender people in prisons, who experience particular difficulties accessing support for their transition as a result of staff not having enough knowledge yet aren't enabled to take control of their own transitions. This disadvantage is compounded by the ways in which these issues combine with ongoing misunderstanding, discrimination and the downplaying of LGBT+ identities. These factors affect mental health by increasing frustration and anxiety. One participant highlighted this:

'within the prison environment, trying to get somebody to listen to your mental health problems or the difficulties you are going through is really frustrating unless you have got something physically wrong with you.' (Trans person in custody)

In the light of these difficulties, it became clear that there are areas in which LGBT+ people in prisons try to reclaim autonomy and build resilience.

Engagement with prison support structures

A number of participants described either having official roles such as LGBT representative or listener, or having been given unofficial responsibility for LGBT+ peers. One who had an official role described it as follows:

'I worked as a listener for a while which is obviously through the Samaritans people and those who have suicidal thoughts and things like that and it's counselling but it's not counselling in the interventions sense, it's just assistance to listen to them... but the scheme itself was great, I thought it was a fantastic idea because there's a lot of guys that do really, really suffer...' (Gay person in custody)

Another explained: ***'I mean like I say I'm the rep for like obviously sexual orientation, so if anyone has ever got any problems they'll come to me, we'll go to meetings and bring up any issues that come around, anything they feel is wrong.'*** (Lesbian woman in custody)

Others had less official roles which nonetheless carried a fair bit of responsibility. One participant said,

'I mean the staff do approach me on lots of different issues you know, they will approach me, so and so got this issue with, could be an LGBT issue, could be any equality issue. And they ask me if I would go and speak to them.' (Gay man in custody). Another with a similar unofficial role said,

'I wouldn't say I'm an expert but they seem to think I am, they've got me supporting all these Trans women and men in other jails and I'm like okay...' (Trans person in custody)

While there is merit in LGBT+ people in prisons giving peer support to other LGBT+ people in prisons, it is nonetheless problematic on a number of different levels. There is a constant tension in all walks of life between allowing individual people to be the experts about their own life, and a reliance on those same individuals to be spokespeople for entire diverse groups. Individual members of any group are not by mere membership in that group experts in the needs and experiences of all of the diverse people who make up the whole group. Reliance on LGBT+ individuals to be solely responsible for attending to the needs of all LGBT+ in custody can fail to take into account that there are huge intersectional variations in the experiences of, and reactions to, gay men, lesbian women, bisexual people and transgender people. It can also conflate sexual orientation and gender identity, which might fail to anticipate that trans people may also be LGB, or that LGB people may also be trans.

Within these assumptions is another tacit assumption, that LGBT+ people are not only best suited to deal with their own, but that this in some way mitigates or abnegates the responsibilities of staff and places the responsibility for the wellbeing of LGBT+ people in prisons within their own community. One participant described it as follows:

'the harsh reality of it because there is no support for women in here with complex mental health. I mean staff aren't even trained in mental health, well some of them are but staff will say "we aren't trained to deal with this" and they will happily, because no officers are on the house overnight, they will happily just leave me and the other induction orderly to deal with it you know.' (Lesbian woman in custody)

While the participants generally viewed having LGBT+ representatives as a good thing, some participants raised concerns. These included representatives doing more work than they had the capacity for, officers using people in prisons as repositories of knowledge rather than learning for themselves, and individuals being worried about whether they had the knowledge and skills to take responsibility for these unofficial roles. One participant said,

'I think in some ways he [one of the LGBT reps] does too much for the jail in the LGBT part of it... because whilst I was on this wing and I was sitting with him on the days that he wasn't supposed to be working he would literally go out of his way, out of his time and do everything that the prison officers asked of him or a prisoner came up to him and said would you do this for me or have you got this he'll do it within a space of about 5 to 10 minutes. He was going out of his way using his time to do what the jail needed him to do so yeah he does way too much for this job.' (Bisexual man in custody)

Additionally, there is inconsistent support or training given to the people fulfilling these unofficial roles, often depending on the individual prison. The prison system assumes that LGBT+ people "know their own" and are sources of knowledge simply because they are LGBT+. One participant said,

'...I feel a bit of a, what's the word, a bit daft really like... trans, reassignment transgender, I know bits and bobs but I don't know a great deal because obviously I am not transgender and I don't want to change sex but I need to know

the information with the fact that I am the rep... they haven't even given me any like paperwork so that I can read up so I know what I am talking about... So that's kind of how I am feeling, because I don't understand everything.' (Lesbian woman in custody)

Staff readiness to deal with LGBT+ issues

Staff also raised concerns of their own around their lack of training and knowledge. One noted that much of their day is taken up with other matters:

'And our job's pretty much time bound as well, the days run both looking at our clock, certain things have to be done at certain times in the day, so staff are constantly under pressure to get these things done, so that again has an effect on how much time we can spend with the ladies.' (Prison Staff)

Another staff participant said, **'Definitely equality and diversity, I mean there's no, there's no formal training. There's no classroom training for equality and diversity. All you do is you go on the computer and do an online, tutorial that, takes about 15 minutes, and you just go tick, tick, tick, tick, tick and you move on.'** (Prison Staff)

Another noted, **'something that I think all staff don't get enough of is the rights and the way to look after transgender people, definitely, definitely the little bit of contact that I have had with these people, staff are quite frightened because they don't want to do the wrong thing or say the wrong thing, they definitely don't get enough training in that area.'** (Prison Staff).

Although it was acknowledged that some staff members are prejudiced and institutionalised by the system, most staff participants regard themselves as trying to do the right thing. One staff participant said,

'the old school staff who are set in their ways and won't adapt to change, we don't want them here, but there are some of the older staff who actually come on board and think hmmm this isn't a bad idea.' (Prison Staff)

Another talked about the need for more training and in the same breath said that they wouldn't need the training because everyone should be treated decently:

'So if there was, obviously, there was more coming out and we were aware of them I reckon we probably need a bit of training, but just be yourself and try and help them as you would help the next prisoner' (Prison Staff)

A number of participants did acknowledge that some staff tried their best, and that it wasn't easy for the individuals doing that job within the constraints of the prison system. One reflected,

'there was one guy, one officer guy, brilliant officer, he was really driven, he was always wanting to get things like, getting publicity out there for the service, really really driven but he just got no or very little support from the management above him, very very little and I think for any scheme no matter what it is, whether it's an LGBT awareness scheme or whether it's a Listener's scheme, whether it's anything, anything really,' (Gay man in custody)

Another echoed this view, acknowledging that there is a sense of staff feeling overwhelmed by lack of training and awareness,

'Prison officers have a lot to learn, some of the officers that I've seen who they don't have a problem with anyone who identifies as LGBT but they do not know enough about it. Some of them don't know anything about it and they sit there and they ask prisoners who are a part of that group to tell them a little bit. That's mainly what the officers rely on, they rely on us to tell them what the LGBT is.' (Bisexual man in custody)

Humanising relations in prison

Despite their sympathy with some of the issues facing staff, there was nonetheless a view among participants that the responsibility for LGBT+ support should not be placed on the shoulders of LGBT+ people in prisons. One participant said,

'although the prison service has moved on, I still think there's a bit of apathy there... any prison service or any prison officer will tell you the amount of paperwork that is generated in this place is horrendous. I wouldn't like their job but I'm seeing it from this side of the fence... it's just that they've still not managed to bring themselves into the 21st century, they need to start accepting that regardless of what somebody's done and it doesn't matter how bad it is they're still a human being and they still need to be treated as such.' (Gay man in custody)

Members of staff echoed this view with one staff participant remarking that,

'I think everybody, whatever role they do, whatever job, we're all influencing, influencers. We, whatever we do we're, wherever, what, [you] know, from the minute [you] get up in the morning to the minute [you] go to bed, you influence other people everyday by your behaviour and your attitudes. So, I don't know if educate, is it the same thing? Maybe? But, yes, I think that we all influence people...' (Prison Staff)

Another staff participant said, ***'we do some training here... and it's about informing all of your staff to consider what people may have been through in their lives. And that's not about making excuses or allowances for what they have done, it's about trying to get to know the people you are looking after rather than just punishing them. So that would be a good starting point for all staff I think. To get them to look beyond the person and their issues, yeah that would be a good start.'*** (Prison Staff).

Another aspect upon which people in prison and staff participants agreed on, was the need for a more individual-centred process to replace the current one when asking about sexual orientation and gender identity on arrival. One staff member said,

'When they are coming in reception they're asked about their sexuality, most just say heterosexual. Some say gay... When they do their screening through reception, maybe ask some questions, about do you need any support and stuff like and sort of signposting stuff.' (Prison Staff)

One of the people in prison felt that, ***'something needs to change, initially when you get into prison... the only equalities contact you have is a piece of paper that asks your gender blah blah blah and your orientation and that's a very impersonal thing and you're also giving the piece of paper to somebody you don't know and***

you don't know what the system is like and especially if you're coming in for the first time. So I would suggest a much more intimate process whereby someone speaks to you about it and **explains to you what's on offer.**' (Gay man in custody).

While the prison system itself can be intractable and resistant to change and anyone that doesn't conform to rules and norms, both people in prisons and staff agree on the need for a more person- centred approach that includes the individual as part of the system rather than as someone to be contained by the system. We see glimmers of this approach expressed in one staff participant's comments,

'That's the thing though, [name] gets treated exactly the same ways as other females, from day one she has never been called he, and that's with all the staff, you know she is in female halls, she is a woman that's it.' (Prison Staff)

VII. Conclusion and Recommendations

The findings of this study show the ways in which LGBT+ people in prison, like other people in custody, find themselves in a rigid, and ultimately hypermasculine environment in both male and female estates where the focus is on adherence to rules, norms and conformity. Within this system, people in prison tend to be depersonalised.

In addition to these common challenges, LGBT+ people in prison also face specific challenges for being LGBT+. Within the rigid and binary structure of the prison system, LGBT+ people can be targets of stigma, derision and deviance, leading to feelings of helplessness, isolation and humiliation. This situation is particularly pronounced in the case of transgender people in prison. While we did find some aspirational elements to some policies and instances where individual staff were supportive and trying hard to make things better, we found that overall individual and institutional barriers exist that make being LGBT+ in prison a mostly negative experience.

We have shown examples of how LGBT+ people in the prison system are derided for being LGBT+. We have also described problematic examples of the system being quite willing to allow LGBT+ people to be the sole experts in all things LGBT+. We have seen examples where it appears it is easier to deal with LGBT+ people's issues by pretending they don't exist or by separating LGBT+ people from the rest of the prison population. Sometimes this is rationalised in the framework of staff shortages, cost-cutting, lack of resources and the need to deal with the issues of controlling violence within the prison system. Overall, the result is to disadvantage LGBT+ people and at the same time put the onus for their needs onto the LGBT+ people themselves. Violence is not only physical, and LGBT+ people who find their identities derided, mocked and erased are as much victims of institutionalised violence as if they had been physically assaulted.

- a. Humour and banter: LGBT+ people in institutional confinement particularly highlighted how humour and jokes were often used as a tool to ridicule, stigmatise and belittle them. This use of humour is rationalised as part of a rough and tumble culture where LGBT+ people need to be less sensitive and learn to take a joke. In

a similar vein, LGBT+ people in prison highlighted instances of minimising and depersonalising speech which fosters microaggressions, bullying and the minimising of people's identities, such as when people refer to transgender people as transgenders or use gay in a derogatory sense that includes bisexual identities.

- b. Separation and segregation: LGBT+ participants highlighted ways in which LGBT+ identities were challenged or erased. Some ways were overt such as other people avoiding them or being suspicious or hostile toward them. In this report we were able to identify, despite the small sample, situations in which LGBT+ people were deliberately separated from others, and in some cases, actually put on the segregation unit, for their own safety, thus removing them from the rest of the prison's social environment. This removal, whether framed as protective, administrative or punitive is experienced by the individuals who have been segregated equally and becomes, regardless of the words used to frame it, a form of punishment.

This experience of erasure is not limited to physical removal but is also experienced through prison policies and practices that struggle to deal with anything outside rigid binary gendered norms. Participants highlighted a lack of support or knowledge on the part of staff. Some said that they perceived this as a tacit admission on the part of the prison system it prefers to avoid putting effort into accepting and advancing LGBT+ identities, and that it would be preferable if they would look after themselves. This tendency was also demonstrated by those LGBT+ people who keep their heads down and don't make waves, using self-protective strategies that could be seen as ostracising those who stand up for their rights and make demands of the system.

- c. Institutionalised discrimination: The prison system operates a form of institutionalised discrimination. We have discussed the ways in which it is binary, cis-heteronormative and hypermasculine, which leads to stigmatisation of LGBT+ people within its power hierarchies. But there are more subtle ways in which this operates, such as where staff cite sound operational reasons for not being able to provide LGBT+ people under their supervision with the support and care they need. Prisons face many institutional challenges, including lack of resources, stressful working conditions for staff and lack of funds. These challenges combined with avoidance of LGBT+ identities create conditions where it is easier to rigidly enforce existing rules, no matter how poorly they may fit the specific needs of LGBT+ people than to invest time and resources to find more flexible and humane ways to get similar or improved results.
- d. The threat of physical violence: it is assumed that threat of physical violence is intrinsic to prison life and therefore, accepted as the norm. Prison life could mean going through some form of physical attack, or at least, seeing someone else experiencing it. It was emphasised by participants that prisons are dangerous places and that the danger of violence was ever present. Violence works on

many levels, and acts of discrimination and erasure of identities can be experienced as violently as physical attack. The normalisation of physical violence itself is problematic. One staff participant highlighted that instances of discrimination and violence at the front line were often overlooked or tolerated due to the paperwork and bureaucracy involved in dealing with it. This creates an environment that unintentionally tacitly condones the threat of violence, if not the act itself, against marginalised groups such as LGBT+ people. The practice of dealing with homophobia, biphobia, transphobia and explicit violence by separating the affected individual for their own protection is in itself a violation of the individual's rights. It has the effect of not only putting people in highly unpleasant circumstances against their will, but also shifts the responsibility for being removed onto them by virtue of their identity and other people's reactions to it.

- e. Mental wellbeing: Another narrative on prison life emerging from the research was the issue of mental wellbeing. While not discussed at length by our participants, it is known that suicides among LGBT+ people in UK prisons happen, and that transgender people in prisons are particularly at risk. A number of participants expressed concerns around 'being themselves', such as feeling unable to express their feelings and/or identity because of hostile environments. The creation of conditions to enable LGBT+ people to be themselves should be guided by the same principles that guide prisons to prevent any other form of violence and discrimination. While we noticed some genuine efforts to address this, there remain challenges at the ground level that need to be addressed, starting with educating staff to move beyond traditional understandings of heterosexuality and binary masculine/feminine conformity, and constructively dealing with issues that are often erroneously regarded as not the prison's responsibility to resolve.

While the prison system itself can be intractable regarding rules and norms and resistant to change, it is clear that many people in prison as well as staff agree on the need for a more person-centred approach that includes the individual as part of the system rather than as something to be contained by the system.

There clearly is a need for more communication between LGBT+ people in prison, broader LGBT+ communities, those organisations promoting their legal and human rights and prison staff to build on these areas of agreement and accord. The potential benefits to both are enormous, with staff members not having to feel as if they are permanently two steps behind and able to have more respectful relationships with the people they look after. The potential benefits for people in custody are even greater in terms of enhanced dignity and respect, even in such minutiae as transgender people not being referred to as 'transgenders', or bisexual or lesbian people being recognised as such, rather than simply being called 'gays'. This might lead to less alienation and potentially a more engaged and less isolated segment of the prison population.

The prison system is a complicated environment in which to foster change. It is faced with the problems of under-staffing and a lack of funding and resources. There are many

other complex interactions and demands from both within and without the system that greatly limit the autonomy of LGBT+ people within the prison system and their ability to build resilience to improve their experiences. The adoption of more robust and sensitive approaches to address LGBT+ needs and rights is a challenge that sits at the level of institutional cultural change. Without challenging traditional norms of heterosexuality and binary masculine/feminine conformity and improving attitudes towards more open LGBT+ inclusivity in society as a whole, the issues highlighted in this report will remain challenging to change significantly. Such changes cannot simply be enforced by law and policy but need to be embraced by the creation of different institutional mindsets both inside and outside prisons.

In that vein, we need acknowledge initiatives already taking place. For example, some prisons run collaborative focus groups that are an opportunity to talk about what is being done, to listen and get feedback on what is being done wrong and what is needed to try and improve things for LGBT+ people in prison. Other prisons have pride events and days where a gay football team will come and play against people in prison; or will fly LGBT flags on certain days, which has the effect of creating visibility of LGBT+ people and reinforcing acceptance and inclusion. Both HMPPS and SPS have staff LGBT+ networks which have the opportunity to improve visibility and awareness of LGBT+ people in the prison services. Other initiatives are still only in the discussion or distant planning stage, such as initiatives to encourage more LGBT+ staff to join the service or try to implement LGBT+ specific through-care services for people leaving prison who are re-integrating into society.

Last but not least, LGBT+ people in custody are not merely objects of public intervention or recipients of care within a context of vulnerability to violence and discrimination. They should be agents in their own process of change and should be respected as individuals in their own right. As such, it is necessary to consider their voices but not in a tokenistic way. Existing initiatives should be promoted and new ones sought that can help to deliver on this ideal.

Recommendations

What is needed now is a discussion that outlines the necessary steps to improve LGBT+ experiences and outcomes in the prison setting.

To achieve that, the genuine involvement of LGBT+ individuals is necessary – both inside and outside prison. This would allow a greater sense of ownership and agency on the part of LGBT+ people on both sides of the prison system and hopefully reduce the stigma, isolation and description discussed earlier. This would involve changes to the prison system itself, but we argue that it is time to find ways to make the prison system less rigid and dehumanising and to empower the human beings on both sides of the system. We believe that prison environment should respond to such challenges by creating enabling mechanisms that can protect LGBT+ people in custody from discrimination and harm. This can be done through an approach in which the whole system (staff, people in prisons, institutional rules and procedures as well as policy) understands and

incorporates LGBT+ rights and needs into everyday practice, where dynamic and reflective feedback can lead to a 'new *institutionality*' (Fernandes, 2019) within prison. In the interest of accomplishing the goal of making the prison system less rigid and more focussed on the needs of LGBT+ people the following specific actions could be implemented:

1. More staff training, awareness and sensitisation

Our research showed a hunger among staff for more and better training. The current structure is far too dependent on LGBT+ people themselves being the source of all information. Reliance on only the LGBT+ people known to you for understanding of a large and diverse community necessarily excludes knowledge of everyone else. Prison staff are ill-prepared for new and different people if they are not given broader training. There are numerous LGBT+ organisations throughout the UK with the necessary expertise in LGBT+ lives that could be resourced to provide this training.

Training should be tailored to specific contexts and sensitive to socio-cultural differences that take into consideration an intersectional approach. International training resources, for example, the guide produced by the Association for the Prevention of Torture (APT, 2018) for prisons should be adopted and combined with novel approaches that can better account for local needs and increase the chances for institutional and professional culture change.

For that to be achieved, we believe it is also necessary to have a more robust system to collect equalities data and account for the numbers and presence of LGBT+ people in prisons.

2. Development of educational resources to develop knowledge and prompt conversations, to better inform LGBT+ people in prison of their rights

Many of our participants expressed a lack of understanding of their rights and how to access them. They also indicated distrust that staff would be fully honest with them about their rights. HMPPS and SPS could partner with organisations with legal and human rights expertise regarding LGBT+ people to produce resources that would be made available to people in prison explaining their rights. These resources would need to be made in a number of accessible formats so as not to exclude people with disabilities, different levels of literacy, different language backgrounds or learning differences. Some of these resources are currently in development or have been released by organisations like Bent Bars, the Prisoner's Advice Service and Prison Reform Trust. These resources should be supported and expanded upon where necessary.

3. Developing resources to improve understanding of specific LGBT+ issues

Many people in prison expressed a desire to get more information specific to their needs as LGBT+ people. This is particularly a need for trans people in prison. Similar to the legal resources these could be produced in multiple accessible formats in partnership with organisations with the necessary expertise.

4. Advocacy on behalf of people in institutional confinement: Organisations working with LGBT+ human rights must be adequately resourced and given access to speak on behalf of people who may be less able to articulate their needs.

Not all people in prison are confident or competent enough to articulate their needs to prison staff in a way that will ensure that they are met. External organisations could help LGBT+ people to better express their needs. HMPPS and SPS must allow access to enable this to happen. Resources would need to be found and committed to this as many of the organisations with the ability to do this are charities.

5. Peer Support Programmes need to be developed that allow LGBT+ people who have experience of the criminal justice system to provide information and support to LGBT+ people currently in the system.

Our participants spoke frequently about how the prison environment was different from the world outside of prison. Those who have experienced the justice system are best equipped to understand it and to support others who are in it. Programmes should be developed that support LGBT+ people who can share their experiences to support those who are currently in the system.

6. Community engagement: Resources should be invested in building bridges to the community so LGBT+ people in the system do not lose touch with the broader LGBT+ community, their families & friends.

It is widely accepted that one of the strongest deterrents against repeat offending is maintaining strong connections outside of the prison while in custody. Many LGBT+ people experience high levels of family rejection; developing links to the broader community may provide support that people in prison need.

7. LGBT+ people in custody should be given a vehicle to feed back their experiences to prison administrators

In several of the prisons where we did our research, LGBT+ people were given a voice through focus groups and other means to feedback to the prison management issues they faced. This structure should be repeated across all prisons, and the people who participate in these groups should be empowered to have a genuine influence on the experiences of their LGBT+ peers.

8. Activities supporting and encouraging LGBT+ awareness and Pride should be promoted and expanded.

A number of participants, both staff and people in prison pointed to the positive impact of events that were designed to build awareness and self-esteem among the LGBT+ people in prison. These events should be encouraged, funded and frequent. Such initiatives can contribute to a gradual process of cultural change in relation to LGBT+ people within prison.

Final Thoughts

9. Young adults and YOI

Young Offender Institutions should be more aware and better prepared to support LGBT+ young people. Special measures and mechanisms should be considered to create institutional environments where LGBT+ young people can build trust and feel safe. This is also a matter of consideration for LGBT+ adults, but given the specific stage in social and psychological development of young people, more attention should be given to prevent increased vulnerability in adult life. We found that disclosure of sexual orientation seems to be more complex in male young offender institutions, where hyper-masculinity can be a barrier for young people to express themselves and feel comfortable and respected among others. The creation of institutional mechanisms in support of LGBT+ young people may need to be labelled in another way to avoid, at least initially, stereotyping and fear of being identified by others. Therefore, staff need to be sensible and approachable. The engagement of LGBT+ champions, as observed in some adult prisons, seems to be a good practice but there is no evidence if such model would work in every prison, in particular those where LGBT+ expressions seem to be more constrained, as it is the case of YOIs.

10. More research needs to be done

Better efforts need to be made to identify all of the LGBT+ people currently in UK prisons, and more robust research needs to be facilitated to learn more about their needs. This study was relatively small in scope as it was the first of its kind in the UK and needs to be followed up to determine if the findings are repeated across larger segments of the LGBT+ prison population. For example, we found that the experience of lesbian and bisexual woman is under-researched, despite the recognition of their vulnerability and exposure to harassment and abuse. Similarly, most studies into transgender people in prisons have focused on policy with a lack of qualitative research into how these policies are viewed and experienced by transgender people in prisons. We also found that there is a lack of research into the experiences of LGBT+ people in prisons in Young Offenders Institutions, which could provide a unique field of research on the interfaces between adolescence, sexuality and institutional confinement. We also found that equalities data is being inconsistently collected, and it should be necessary to understand more in depth the reasons for that, including the barriers for people to disclose their gender identity and sexual orientation. We also believe that more specific research on the health needs of LGBT+ people should be done. Issues around mental health and mental wellbeing seem to be one of the key health problems we were able to identify in our research. In addition, we believe that the UK can benefit from wider international comparative research, not only within the English-spoken world, but also, in countries with different systems in place where issues affecting LGBT+ people in prison may be addressed through different policy and practice perspectives as result of diverse socio-cultural systems.

11. Open dialogue

This report was written with the primary intention of opening a conversation within the Criminal Justice Sector, in particular among those people working in policy making and practice. While we sought to explain complex issues in an accessible way for a non-academic audience, we acknowledge that many of these issues demand more detailed explanations that lie beyond the scope of this specific publication. The team involved in this research is working on a series of papers, to be published in both academic and non-academic formats, to further explore these complex issues. Our intention is to widen the necessary discussions around issues affecting LGBT+ people who are deprived of their liberty, and contribute to a wider debate on equality, diversity and fair institutions in the UK and beyond. As such, we welcome commentaries and responses to this report. We also want to engage with existing efforts to improve the experiences of LGBT+ people in custody.

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VII. Annexes

Annex 1 – Letter of Approval from the University of Dundee Research Ethics Committee



School of Education and Social Work

School Research Ethics Committee

MS/CM/E2017-13

School of Education and Social Work
University of Dundee
Nethergate
Dundee
DD1 4HN

6th December 2017

Dear Fernando Fernandes,

E2017-13

Title: The right to difference: Evidencing the situation of young adult LGBT in the UK prisons

I am pleased to confirm that there are no ethical issues with the above application, therefore this has now been formally approved.

Yours sincerely



Convenor, ESW Research Ethics Committee

Annex 2a - Participant Information Sheet (People in Prison)

University of Dundee
PARTICIPANT INFORMATION SHEET

The right to difference: Evidencing the situation of young adult LGBT+ in the UK prisons

INVITATION TO TAKE PART IN A RESEARCH STUDY

You are being invited to participate in the research **The right to difference: Evidencing the situation of young adult LGBT+ in the UK prisons**. The aim of this research is to understand the issues affecting LGBT+ people in the UK prisons to address more tailored measures that can inform and sustain robust equality and diversity policies and practices within the prison system to adequately meet the rights of LGBT+ people. This project is funded by Barrow Cadbury Trust.

WHAT TO EXPECT

Your participation will consist in giving a series of interviews. Interviews may be audio recorded with your consent. During the interviews you will be asked to respond to questions that relate to your experience as a LGBT+ person within the prison system.

TIME COMMITMENT

We expect to have one interview that will last, in average, 60 min. Interviews will be conducted in a reserved place to ensure privacy and confidentiality. This will be necessary to capture the complexity of issues surrounding your experience as LGBT+ within the prison system.

COST, REIMBURSEMENT AND COMPENSATION

There are no costs involved in your participation.

RISKS

Whilst we do not believe that there are any significant risks for you related to your participation in this research, we do acknowledge that this cannot be guaranteed. Therefore, you should know that, ~~in the event that~~ the interview raises concerns or difficult emotions, we will take appropriate steps to ensure that you are supported with this, even if you choose to withdraw from the research. In all other circumstances, the anonymity of participants will be preserved, only discomfort for the time spent with the interview, which will be given in an appropriate place, preserving privacy.

TERMINATION OF PARTICIPATION

Participation is voluntary; you can refuse to participate, respond to specific questions. You can withdraw the participation at any time without any explanation or penalty. You can do this via contacts provided in the information sheet.

CONFIDENTIALITY/ANONYMITY

The data collected during interviews will only be accessed by the researchers involved in the project and will be anonymised so interviewees will not be identified. Confidentiality will be preserved as far as the law permits. However, if the researcher has access to information that can put you or others in risk this may be informed to authorities. If confidentiality is breached by any reason not predicted, you will be informed/involved in the discussion. Anonymised data will be kept in a safe location arranged by the University of Dundee, protected with password, and only accessed by Fernandes during a period of 10 years.

FOR FURTHER INFORMATION ABOUT THIS RESEARCH STUDY

In case of any doubt about the study, or any further information we will be happy to answer any question about the study.

Contact Details:

Dr Fernando Fernandes
 University of Dundee
 School of Education and Social Work
 Nethergate, DD1 4HN, Dundee
 Phone: 01382 384754
 e-mail: f.j.fernandes@dundee.ac.uk

The University Research Ethics Committee of the University of Dundee has reviewed and approved this research study. In case of any complaints about the ethics in this study you should contact the university ethics committee convener Dr Elizabeth Hannah (e.hannah@dundee.ac.uk).

Annex 2b - Participant Information Sheet (Staff)

University of Dundee
PARTICIPANT INFORMATION SHEET

The right to difference: Evidencing the situation of young adult LGBT+ in the UK prisons

INVITATION TO TAKE PART IN A RESEARCH STUDY

You are being invited to participate in the research **The right to difference: Evidencing the situation of young adult LGBT+ in the UK prisons**. The aim of this research is to understand the issues affecting LGBT+ people in the UK prisons to address more tailored measures that can inform and sustain robust equality and diversity policies and practices within the prison system to adequately meet the rights of LGBT+ people. This project is funded by Barrow Cadbury Trust.

WHAT TO EXPECT

Your participation will consist in giving one interview. Interviews may be audio recorded. During the interview, you will be asked to respond to questions that relate to your experience of work in the prison system and/or with LGBT groups. The focus of interviews is to gather information related to the interface between prison and LGBT+.

TIME COMMITMENT

The interview is expected to last no more than 60 minutes. The interview can take place in time and location of your preference, so long it ensures privacy and confidentiality. Alternatively, interviews can be made by phone or Skype.

COST, REIMBURSEMENT AND COMPENSATION

There are no costs involved in your participation.

RISKS

Whilst we do not believe that there are any significant risks for you related to your participation in this research, we do acknowledge that this cannot be guaranteed. Therefore, you should know that, ~~in the event that~~ the interview raises concerns or difficult emotions, we will take appropriate steps to ensure that you are supported with this, even if you choose to withdraw from the research. In all other circumstances, the anonymity of participants will be preserved, only discomfort for the time spent with the interview, which will be given in an appropriate place, preserving privacy.

TERMINATION OF PARTICIPATION

Participation is voluntary; you can refuse to participate, respond to specific questions. You can withdraw the participation at any time without any explanation or penalty. You can do this via contacts provided in the information sheet.

CONFIDENTIALITY/ANONYMITY

The data collected during interviews will only be accessed by the researchers involved in the project and will be anonymised so interviewees will not be identified. Confidentiality will be preserved as far as the law permits. However, if the researcher has access to information that can put you or others in risk this may be informed to authorities. If confidentiality is breached by any reason not predicted, you will be informed/involved in the discussion. Anonymised data will be kept in a safe location arranged by the University of Dundee, protected with password, and only accessed by Fernandes during a period of 10 years.

FOR FURTHER INFORMATION ABOUT THIS RESEARCH STUDY

In case of any doubt about the study, or any further information we will be happy to answer any question about the study.

Contact Details:

Dr Fernando Fernandes
 University of Dundee
 School of Education and Social Work
 Nethergate, DD1 4HN, Dundee
 Phone: 01382 384754
 e-mail: f.j.fernandes@dundee.ac.uk

The University Research Ethics Committee of the University of Dundee has reviewed and approved this research study. In case of any complaints about the ethics in this study you should contact the university ethics committee convener Dr Elizabeth Hannah (e.hannah@dundee.ac.uk).

Annex 3 - Consent Form

Participant Consent Form***The right to difference: Evidencing the situation of young adult LGBT+ in the UK prisons******Please tick the appropriate boxes*****Yes****Taking Part**

I have read and understood the project information sheet.

☐

I have been given the opportunity to ask questions about the project.

☐

I agree to take part in the project.

☐

I understand that my taking part is voluntary; I can withdraw from the study at any time and I do not have to give any reasons for why I no longer want to take part.

☐

I agree for my interview to be audio recorded

☐I understand that my words may be quoted anonymously in publications, reports, web pages, and other research outputs (*if applicable; e.g. for interviews*).☐**Use of the information I provide beyond this project**

I understand that other researchers will have access to this data only if they agree to preserve the confidentiality of the information as requested in this form.

☐

I understand that other genuine researchers may use my words in publications, reports, web pages, and other research outputs, only if they agree to preserve the confidentiality of the information as requested in this form.

☐_____
Name of participant [printed]_____
Signature_____
Date

Project contact details of the research team for further information:

Dr Fernando Fernandes
 University of Dundee
 School of Education and Social Work
 Nethergate, DD1 4HN, Dundee
 Phone: 01382 384754
 e-mail: f.l.fernandes@dundee.ac.uk

Annex 4 – Confirmation of Research Ethics Approval and Prison Access from Scottish Prison Service Research Access and Ethics Committee

Fernando Fernandes (Staff)

From: [REDACTED]
Sent: 02 May 2018 11:30
To: Fernando Fernandes (Staff)
Cc: [REDACTED]
Subject: [REDACTED]
Attachments: RAEC - Access Regulations 2018.doc

Fernando

Following our meeting [REDACTED] and your email to address points of concern, SPS is now content for your LGBT+ project to proceed with suitable caution and sensitivity.

Your central point of contact for identifying, discreetly approaching and securing informed voluntary consent from potential participants will be [REDACTED] Any fieldwork proposed for HMP [REDACTED] should also be co-ordinated through [REDACTED]

Please sign the standard access regulations with which you will be familiar and return to me, either electronically or hard copy.

SPS looks forward to receiving a copy of the research report in due course on completion of the study.

Regards
[REDACTED]

Annex 5 – Confirmation of Research Ethics Approval and Prison Access from HM Prison and Probation Service National Research Committee



HM Prison &
Probation Service

Dr Fernando Fernandes,
University of Dundee,
Nethergate,
Dundee
DD1 4HN

f.f.fernandes@dundee.ac.uk

HM Prison and Probation Service
National Research Committee
Email: National.Research@NOMS.qst.gov.uk

17 May 2018

FINAL APPROVAL FOLLOWING ACCEPTANCE OF MODIFICATIONS – HMPPS RESEARCH

Ref: 2017-354

Title: **The right to difference: Evidencing the situation of young adult LGBT+ in the UK prisons**

Dear Dr Fernandes,

Further to your acceptance of the modifications detailed in our previous letter dated 2 February 2018, the National Research Committee (NRC) is pleased to provide final approval for your research project. The terms and conditions below will continue to apply to your research project.

Please note that unless the project is commissioned by MoJ/HMPPS and signed off by Ministers, the decision to grant access to prison establishments, National Probation Service (NPS) divisions or Community Rehabilitation Company (CRC) areas (and the offenders and practitioners within these establishments/divisions/areas) ultimately lies with the Governing Governor/Director of the establishment or the Deputy Director/Chief Executive of the NPS division/CRC area concerned. If establishments/NPS divisions/CRC areas are to be approached as part of the research, a copy of this letter must be attached to the request to prove that the NRC has approved the study in principle. The decision to grant access to existing data lies with the Information Asset Owners (IAOs) for each data source and the researchers should abide by the data sharing conditions stipulated by each IAO.

Please note that a HMPPS/MoJ policy lead may wish to contact you to discuss the findings of your research. If requested, your contact details will be passed on and the policy lead will contact you directly.

Please quote your NRC reference number in all future correspondence.

Yours sincerely,


(On behalf of the National Research Committee)

Annex 6 - Recruitment Poster



LGBTQ+ Research

Do you identify as LGBTQ+ and are between 18—25 years old?

The University of Dundee is looking for people to take part in research to help understand what life in prison, and the support back to the community, is like for people who identify as LGBTQ+.

The research will help to develop policy and training to promote the rights of LGBTQ+ identified people in custody.

The interviews will be in a private room, one to one. The report will anonymise the people who take part.

If you are interested in taking part or want more info you can contact [GATE KEEPER NAME]



LGBT + People in Prisons:
Experiences in England and Scotland

FULL REPORT OCTOBER 2020



University
of Dundee



Report designed by Kristi Louise Herd
e: kristlherd1@gmail.com